

to be appropriated \$100,000,000 for fiscal year 2003, and such sums as may be necessary for each of fiscal years 2004 through 2007.

“(2) PUBLIC HEALTH EMERGENCIES.—In the case of control programs carried out in response to a mosquito-borne disease that constitutes a public health emergency, the authorization of appropriations under paragraph (1) is in addition to applicable authorizations of appropriations under the Public Health Security and Bioterrorism Preparedness and Response Act of 2002.

“(3) FISCAL YEAR 2004 APPROPRIATIONS.—For fiscal year 2004, 50 percent or more of the funds appropriated under paragraph (1) shall be used to award grants to political subdivisions or consortia of political subdivisions under subsection (b).”.

### SEC. 3. RESEARCH PROGRAM OF NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES.

Subpart 12 of part C of title IV of the Public Health Service Act (42 U.S.C. 285 et seq.) is amended by adding at the end the following section:

#### “METHODS OF CONTROLLING CERTAIN INSECT AND VERMIN POPULATIONS

“SEC. 463B. The Director of the Institute shall conduct or support research to identify or develop methods of controlling insect and vermin populations that transmit to humans diseases that have significant adverse health consequences.”.

### SEC. 4. REPORT.

Not later than 180 days after the date of enactment of this Act, the Secretary of Health and Human Services, after consultation with the Administrator of the Environmental Protection Agency shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report containing the following:

(1) A description of the status of the development of protocols for ensuring the safety of the blood supply of the United States with respect to West Nile Virus, including—

(A) the status of the development of screening mechanisms;

(B) changes in donor screening protocols; and

(C) the implementation of surveillance systems for the transmission of the virus via the blood supply.

(2) Recommendations for improvements to be made to the safety of the blood supply based on the development of protocols pursuant to paragraph (1), including the need for expedited review of screening mechanisms or other protocols.

(3) The benefits and risks of the spraying of insecticides as a public health intervention, including recommendations and guidelines for such spraying.

(4) The overall role of public health pesticides and the development of standards for the use of such pesticides compared to the standards when such pesticides are used for agricultural purposes.

Mr. TAUZIN. Mr. Speaker, I am pleased that the House is considering, hopefully for the final time, the Mosquito Abatement for Safety and Health Act (MASH).

Last summer, West Nile infected over 40 states in the nation. This record epidemic led to the deaths of 274 people and made seriously ill more than 4,000. While much of the press has focused on Severe Acute Respiratory Syndrome (SARS), it is important to point out that last year West Nile Virus led to more American deaths than the total caseload of SARS in this country. West Nile Virus is clearly an infectious disease that must be addressed in a coordinated fashion.

The House has passed the Mosquito Abatement for Safety and Health Act twice in the past year. I am pleased to announce that we have reached agreement with our Senate counterparts and are now planning to move forward legislation that is substantively the same as the MASH Act approved by the House in March, with of course, minor, but nonetheless improvements to the House bill.

The bill we are considering today will complement the work the CDC already has underway. The MASH Act provides authority to the Secretary of Health and Human Services to make grants to states for the purpose of coordinating mosquito control programs, including assessment and mosquito control planning grants to political subdivisions. In addition to State grants, the MASH Act authorizes the CDC to award grants to political subdivisions of states for the operation of mosquito control programs.

The rapid outbreak of West Nile virus across America—which is fast outpacing the predictions of many scientists—has made it very difficult for our communities to adequately respond. The additional federal dollars we authorize through this legislation will assist states and localities with their immediate needs to combat West Nile virus. Notably, this legislation recognizes the importance of keeping mosquito control programs running at the local level, where they have historically operated. The bill also gives additional support to the CDC so it may provide training and technical assistance in the planning, development, and operation of mosquito control programs.

I would also like to personally thank my colleagues, Representative CHRIS JOHN, for the leadership he has shown in advancing this legislation. I would also like to thank Senators GREGG, FRIST, BREAU, LANDRIEU, and KENNEDY and their staff for the extensive time they dedicated to this issue.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

### GENERAL LEAVE

Mr. TAUZIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2854 and S. 1015, the two bills just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

### VISION 100—CENTURY OF AVIATION REAUTHORIZATION ACT

Mr. YOUNG of Alaska submitted the following conference report and statement on the bill (H.R. 2115) to amend title 49, United States Code, to reauthorize programs for the Federal Aviation Administration, and for other purposes.

#### CONFERENCE REPORT (H. REPT. 108-240)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2115), to amend title 49, United States Code, to reauthorize programs for the Federal Aviation Administration, and for other purposes,

having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Vision 100—Century of Aviation Reauthorization Act”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Amendments to title 49, United States Code.

Sec. 3. Applicability.

Sec. 4. Findings.

#### TITLE I—AIRPORT AND AIRWAY IMPROVEMENTS

##### Subtitle A—Funding of FAA Programs

Sec. 101. Airport planning and development and noise compatibility planning and programs.

Sec. 102. Air navigation facilities and equipment.

Sec. 103. Federal Aviation Administration operations.

Sec. 104. Funding for aviation programs.

Sec. 105. Agreements for operation of airport facilities.

Sec. 106. Insurance.

##### Subtitle B—Passenger Facility Fees

Sec. 121. Low-emission airport vehicles and ground support equipment.

Sec. 122. Use of fees to pay debt service.

Sec. 123. Streamlining of the passenger facility fee program.

Sec. 124. Financial management of passenger facility fees.

##### Subtitle C—AIP Modifications

Sec. 141. Airfield pavement.

Sec. 142. Replacement of baggage conveyor systems.

Sec. 143. Authority to use certain funds for airport security programs and activities.

Sec. 144. Grant assurances.

Sec. 145. Clarification of allowable project costs.

Sec. 146. Apportionments to primary airports.

Sec. 147. Cargo airports.

Sec. 148. Considerations in making discretionary grants.

Sec. 149. Flexible funding for nonprimary airport apportionments.

Sec. 150. Use of apportioned amounts.

Sec. 151. Increase in apportionment for, and flexibility of, noise compatibility planning programs.

Sec. 152. Pilot program for purchase of airport development rights.

Sec. 153. Military airport program.

Sec. 154. Airport safety data collection.

Sec. 155. Airport privatization pilot program.

Sec. 156. Innovative financing techniques.

Sec. 157. Airport security program.

Sec. 158. Emission credits for air quality projects.

Sec. 159. Low-emission airport vehicles and infrastructure.

Sec. 160. Compatible land use planning and projects by State and local governments.

Sec. 161. Temporary increase in Government share of certain AIP project costs.

Sec. 163. Federal share for private ownership of airports.

Sec. 164. Disposition of land acquired for noise compatibility purposes.

Sec. 165. Hangar construction grant assurance.

Sec. 166. Terminal development costs.

*Subtitle D—Miscellaneous*

- Sec. 181. Design-build contracting.
- Sec. 182. Pilot program for innovative financing of air traffic control equipment.
- Sec. 183. Cost sharing of air traffic modernization projects.
- Sec. 184. Facilities and equipment reports.
- Sec. 185. Civil penalty for permanent closure of an airport without providing sufficient notice.
- Sec. 186. Midway Island airport.
- Sec. 187. Intermodal planning.
- Sec. 188. Marshall Islands, Micronesia, and Palau.
- Sec. 189. Limitation on approval of certain programs.
- Sec. 190. Conveyance of airport.

**TITLE II—FAA ORGANIZATION**

*Subtitle A—FAA Reform*

- Sec. 201. Management advisory committee members.
- Sec. 202. Reorganization of the air traffic services subcommittee.
- Sec. 203. Clarification of the responsibilities of the Chief Operating Officer.
- Sec. 204. Deputy Administrator.

*Subtitle B—Miscellaneous*

- Sec. 221. Controller staffing.
- Sec. 222. Whistleblower protection under acquisition management system.
- Sec. 223. FAA purchase cards.
- Sec. 224. Procurement.
- Sec. 225. Definitions.
- Sec. 226. Air traffic controller retirement.
- Sec. 227. Design organization certificates.
- Sec. 228. Judicial review.
- Sec. 229. Overflight fees.
- Sec. 230. Prohibition on air traffic control privatization.
- Sec. 231. Definition of air traffic controller.

**TITLE III—ENVIRONMENTAL PROCESS**

*Subtitle A—Aviation Development Streamlining*

- Sec. 301. Short title.
- Sec. 302. Findings.
- Sec. 303. Airport capacity enhancement.
- Sec. 304. Aviation project streamlining.
- Sec. 305. Elimination of duplicative requirements.
- Sec. 306. Construction of certain airport capacity projects.
- Sec. 307. Issuance of orders.
- Sec. 308. Limitations.
- Sec. 309. Relationship to other requirements.

*Subtitle B—Miscellaneous*

- Sec. 321. Report on long term environmental improvements.
- Sec. 322. Noise disclosure.
- Sec. 323. Overflights of national parks.
- Sec. 324. Noise exposure maps.
- Sec. 325. Implementation of Chapter 4 noise standards.
- Sec. 326. Reduction of noise and emissions from civilian aircraft.
- Sec. 327. Special rule for airport in Illinois.

**TITLE IV—AIRLINE SERVICE IMPROVEMENTS**

*Subtitle A—Small Community Air Service*

- Sec. 401. Exemption from hold-in requirements.
- Sec. 402. Adjustments to account for significantly increased costs.
- Sec. 403. Joint proposals.
- Sec. 404. Essential air service authorization.
- Sec. 405. Community and regional choice programs.
- Sec. 406. Code-sharing pilot program.
- Sec. 407. Tracking service.
- Sec. 408. EAS local participation program.
- Sec. 409. Measurement of highway miles for purposes of determining eligibility of essential air service subsidies.
- Sec. 410. Incentive program.
- Sec. 411. National Commission on Small Community Air Service.
- Sec. 412. Small community air service.

*Subtitle B—Miscellaneous*

- Sec. 421. Data on incidents and complaints involving passenger and baggage security screening.
- Sec. 422. Delay reduction actions.
- Sec. 423. Collaborative decisionmaking pilot program.
- Sec. 424. Competition disclosure requirement for large and medium hub airports.
- Sec. 425. Slot exemptions at Ronald Reagan Washington National Airport.
- Sec. 426. Definition of commuter aircraft.
- Sec. 427. Airfares for members of the Armed Forces.
- Sec. 428. Air carriers required to honor tickets for suspended service.

**TITLE V—AVIATION SAFETY**

- Sec. 501. Counterfeit or fraudulently represented parts violations.
- Sec. 502. Runway safety standards.
- Sec. 503. Civil penalties.
- Sec. 504. Improvement of curriculum standards for aviation maintenance technicians.
- Sec. 505. Assessment of wake turbulence research and development program.
- Sec. 506. FAA inspector training.
- Sec. 507. Air transportation oversight system plan.

**TITLE VI—AVIATION SECURITY**

- Sec. 601. Certificate actions in response to a security threat.
- Sec. 602. Justification for air defense identification zone.
- Sec. 603. Crew training.
- Sec. 604. Study of effectiveness of transportation security system.
- Sec. 605. Airport security improvement projects.
- Sec. 606. Charter security.
- Sec. 607. CAPPS2.
- Sec. 608. Report on passenger prescreening program.
- Sec. 609. Arming cargo pilots against terrorism.
- Sec. 610. Removal of cap on TSA staffing level.
- Sec. 611. Foreign repair stations.
- Sec. 612. Flight training.
- Sec. 613. Deployment of screeners at Kenai, Homer, and Valdez, Alaska.

**TITLE VII—AVIATION RESEARCH**

- Sec. 701. Authorization of appropriations.
- Sec. 702. Federal Aviation Administration Science and Technology Scholarship Program.
- Sec. 703. National Aeronautics and Space Administration Science and Technology Scholarship Program.
- Sec. 704. Research program to improve airfield pavements.
- Sec. 705. Ensuring appropriate standards for airfield pavements.
- Sec. 706. Development of analytical tools and certification methods.
- Sec. 707. Research on aviation training.
- Sec. 708. FAA Center for Excellence for applied research and training in the use of advanced materials in transport aircraft.
- Sec. 709. Air Transportation System Joint Planning and Development Office.
- Sec. 710. Next Generation Air Transportation Senior Policy Committee.
- Sec. 711. Rotorcraft Research and Development Initiative.
- Sec. 712. Airport Cooperative Research Program.

**TITLE VIII—MISCELLANEOUS**

- Sec. 801. Definitions.
- Sec. 802. Report on aviation safety reporting system.
- Sec. 803. Anchorage air traffic control.
- Sec. 804. Extension of Metropolitan Washington Airports Authority.
- Sec. 805. Improvement of aviation information collection.
- Sec. 806. Government-financed air transportation.

- Sec. 807. Air carrier citizenship.
- Sec. 808. United States presence in global air cargo industry.
- Sec. 809. Availability of aircraft accident site information.
- Sec. 810. Notice concerning aircraft assembly.
- Sec. 811. Type certificates.
- Sec. 812. Reciprocal airworthiness certification.
- Sec. 813. International role of the FAA.
- Sec. 814. Flight attendant certification.
- Sec. 815. Air quality in aircraft cabins.
- Sec. 816. Recommendations concerning travel agents.
- Sec. 817. Reimbursement for losses incurred by general aviation entities.
- Sec. 818. International air show.
- Sec. 819. Report on certain market developments and government policies.
- Sec. 820. International air transportation.
- Sec. 821. Reimbursement of air carriers for certain screening and related activities.
- Sec. 822. Charter airlines.
- Sec. 823. General aviation flights at Ronald Reagan Washington National Airport.
- Sec. 824. Review of air carrier compensation.
- Sec. 825. Noise control plan for certain airports.
- Sec. 826. GAO report on airlines actions to improve finances and on executive compensation.
- Sec. 827. Private air carriage in Alaska.
- Sec. 828. Report on waivers of preference for buying goods produced in the United States.
- Sec. 829. Navigation fees.

**TITLE IX—EXTENSION OF AIRPORT AND AIRWAY TRUST FUND EXPENDITURE AUTHORITY**

- Sec. 901. Extension of expenditure authority.
- Sec. 902. Technical correction to flight segment.

**SEC. 2. AMENDMENTS TO TITLE 49, UNITED STATES CODE.**

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

**SEC. 3. APPLICABILITY.**

Except as otherwise specifically provided, this Act and the amendments made by this Act shall apply only to fiscal years beginning after September 30, 2003.

**SEC. 4. FINDINGS.**

Congress finds the following:

(1) The United States has revolutionized the way people travel, developing new technologies and aircraft to move people more efficiently and more safely.

(2) Past Federal investment in aeronautics research and development has benefited the economy and national security of the United States and the quality of life of its citizens.

(3) The total impact of civil aviation on the United States economy exceeds \$900,000,000,000 annually and accounts for 9 percent of the gross national product and 11,000,000 jobs in the national workforce. Civil aviation products and services generate a significant surplus for United States trade accounts, and amount to significant numbers of the Nation's highly skilled, technologically qualified work force.

(4) Aerospace technologies, products, and services underpin the advanced capabilities of our men and women in uniform and those charged with homeland security.

(5) Future growth in civil aviation increasingly will be constrained by concerns related to aviation system safety and security, aviation system capabilities, aircraft noise, emissions, and fuel consumption.

(6) Revitalization and coordination of the United States efforts to maintain its leadership in aviation and aeronautics are critical and must begin now.

(7) A recent report by the Commission on the Future of the United States Aerospace Industry

outlined the scope of the problems confronting the aerospace and aviation industries in the United States and found that—

(A) aerospace will be at the core of the Nation's leadership and strength throughout the 21st century;

(B) aerospace will play an integral role in the Nation's economy, security, and mobility; and

(C) global leadership in aerospace is a national imperative.

(8) Despite the downturn in the global economy, projections of the Federal Aviation Administration indicate that upwards of 1,000,000,000 people will fly annually by 2013. Efforts must begin now to prepare for future growth in the number of airline passengers.

(9) The United States must increase its investment in research and development to revitalize the aviation and aerospace industries, to create jobs, and to provide educational assistance and training to prepare workers in those industries for the future.

## TITLE I—AIRPORT AND AIRWAY IMPROVEMENTS

### Subtitle A—Funding of FAA Programs

#### SEC. 101. AIRPORT PLANNING AND DEVELOPMENT AND NOISE COMPATIBILITY PLANNING AND PROGRAMS.

(a) AUTHORIZATION.—Section 48103 is amended—

(1) by striking “The total” and inserting “(a) IN GENERAL.—The total”; and

(2) in subsection (a) (as so designated)—

(A) by striking “September 30, 1998” and inserting “September 30, 2003”; and

(B) by striking paragraphs (1) through (5) and inserting the following:

“(1) \$3,400,000,000 for fiscal year 2004;

“(2) \$3,500,000,000 for fiscal year 2005;

“(3) \$3,600,000,000 for fiscal year 2006; and

“(4) \$3,700,000,000 for fiscal year 2007.”.

(b) OBLIGATIONAL AUTHORITY.—Section 47104(c) is amended by striking “September 30, 2003” and inserting “September 30, 2007”.

#### SEC. 102. AIR NAVIGATION FACILITIES AND EQUIPMENT.

Section 48101 is amended—

(1) in subsection (a) by striking paragraphs (1) through (5) and inserting the following:

“(1) \$3,138,000,000 for fiscal year 2004;

“(2) \$2,993,000,000 for fiscal year 2005;

“(3) \$3,053,000,000 for fiscal year 2006; and

“(4) \$3,110,000,000 for fiscal year 2007.”.

(2) by striking subsections (b), (d), and (e) and redesignating subsection (c) as subsection (b);

(3) by inserting after subsection (b) (as so redesignated) the following:

“(c) ENHANCED SAFETY AND SECURITY FOR AIRCRAFT OPERATIONS IN THE GULF OF MEXICO.—Of amounts appropriated under subsection (a), such sums as may be necessary for fiscal years 2004 through 2007 may be used to expand and improve the safety, efficiency, and security of air traffic control, navigation, low altitude communications and surveillance, and weather services in the Gulf of Mexico.

“(d) OPERATIONAL BENEFITS OF WAKE VORTEX ADVISORY SYSTEM.—Of amounts appropriated under subsection (a), such sums as may be necessary for each of fiscal years 2004 through 2007 may be used for the development and analysis of wake vortex advisory systems.

“(e) GROUND-BASED PRECISION NAVIGATIONAL AIDS.—Of amounts appropriated under subsection (a), such sums as may be necessary for each of fiscal years 2004 to 2007 may be used to establish a program for the installation of a precision approach aid designed to improve aircraft accessibility at mountainous airports with limited land if the approach aid is able to provide curved and segmented approach guidance for noise abatement purposes and other such approach aids and is certified or approved by the Administrator.”.

(4) in subsection (f)—

(A) by striking “for fiscal years beginning after September 30, 2000”; and

(B) by inserting “may be used” after “necessary”; and

(5) by adding at the end the following:

“(h) STANDBY POWER EFFICIENCY PROGRAM.—Of amounts appropriated under subsection (a), such sums as may be necessary for each of fiscal years 2004 through 2007 may be used by the Secretary of Transportation, in cooperation with the Secretary of Energy and, where applicable, the Secretary of Defense, to establish a program to improve the efficiency, cost effectiveness, and environmental performance of standby power systems at Federal Aviation Administration sites, including the implementation of fuel cell technology.

“(i) PILOT PROGRAM TO PROVIDE INCENTIVES FOR DEVELOPMENT OF NEW TECHNOLOGIES.—Of amounts appropriated under subsection (a), \$500,000 for fiscal year 2004 may be used for the conduct of a pilot program to provide operating incentives to users of the airspace for the deployment of new technologies, including technologies to facilitate expedited flight routing and sequencing of take-offs and landings.”.

#### SEC. 103. FEDERAL AVIATION ADMINISTRATION OPERATIONS.

(a) IN GENERAL.—Section 106(k)(1) is amended to read as follows:

“(1) SALARIES, OPERATIONS, AND MAINTENANCE.—There is authorized to be appropriated to the Secretary of Transportation for salaries, operations, and maintenance of the Administration—

“(A) \$7,591,000,000 for fiscal year 2004;

“(B) \$7,732,000,000 for fiscal year 2005;

“(C) \$7,889,000,000 for fiscal year 2006; and

“(D) \$8,064,000,000 for fiscal year 2007.

Such sums shall remain available until expended.”.

(b) AUTHORIZED EXPENDITURES.—Section 106(k)(2) is amended—

(1) by striking subparagraphs (A) and (B) and subparagraphs (F) through (I);

(2) by redesignating subparagraphs (C), (D), and (E) as subparagraphs (A), (B), and (C), respectively;

(3) in subparagraphs (A), (B), and (C) (as so redesignated) by striking “fiscal years 2000 through 2003” and inserting “fiscal years 2004 through 2007”; and

(4) by adding after subparagraph (C) (as so redesignated) the following:

“(D) Such sums as may be necessary for fiscal years 2004 through 2007 for the Center for Management Development of the Federal Aviation Administration to operate training courses and to support associated student travel for both residential and field courses.

“(E) Such sums as may be necessary for fiscal years 2004 through 2007 to carry out and expand the Air Traffic Control Collegiate Training Initiative.

“(F) Such sums as may be necessary for fiscal years 2004 through 2007 for the completion of the Alaska aviation safety project with respect to the 3 dimensional mapping of Alaska's main aviation corridors.

“(G) Such sums as may be necessary for fiscal years 2004 through 2007 to carry out the Aviation Safety Reporting System.”.

(c) AIRLINE DATA AND ANALYSIS.—There is authorized to be appropriated to the Secretary of Transportation, out of the Airport and Airway Trust Fund established by section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502), \$3,971,000 for fiscal year 2004, \$4,045,000 for fiscal year 2005, \$4,127,000 for fiscal year 2006, and \$4,219,000 for fiscal year 2007 to gather aviation data and conduct analyses of such data in the Bureau of Transportation Statistics of the Department of Transportation.

#### SEC. 104. FUNDING FOR AVIATION PROGRAMS.

(a) IN GENERAL.—Chapter 481 is further amended by adding at the end the following:

##### “§48114. Funding for aviation programs

“(a) AUTHORIZATION OF APPROPRIATIONS.—

“(1) AIRPORT AND AIRWAY TRUST FUND GUARANTEE.—

“(A) IN GENERAL.—The total budget resources made available from the Airport and Airway Trust Fund each fiscal year through fiscal year 2007 pursuant to sections 48101, 48102, 48103, and 106(k) of title 49, United States Code, shall be equal to the level of receipts plus interest credited to the Airport and Airway Trust Fund for that fiscal year. Such amounts may be used only for aviation investment programs listed in subsection (b).

“(B) GUARANTEE.—No funds may be appropriated or limited for aviation investment programs listed in subsection (b) unless the amount described in subparagraph (A) has been provided.

“(2) ADDITIONAL AUTHORIZATIONS OF APPROPRIATIONS FROM THE GENERAL FUND.—In any fiscal year through fiscal year 2007, if the amount described in paragraph (1) is appropriated, there is further authorized to be appropriated from the general fund of the Treasury such sums as may be necessary for the Federal Aviation Administration Operations account.

“(b) DEFINITIONS.—In this section, the following definitions apply:

“(1) TOTAL BUDGET RESOURCES.—The term ‘total budget resources’ means the total amount made available from the Airport and Airway Trust Fund for the sum of obligation limitations and budget authority made available for a fiscal year for the following budget accounts that are subject to the obligation limitation on contract authority provided in this Act and for which appropriations are provided pursuant to authorizations contained in this Act:

“(A) 69-8106-0-7-402 (Grants in Aid for Airports).

“(B) 69-8107-0-7-402 (Facilities and Equipment).

“(C) 69-8108-0-7-402 (Research and Development).

“(D) 69-8104-0-7-402 (Trust Fund Share of Operations).

“(2) LEVEL OF RECEIPTS PLUS INTEREST.—The term ‘level of receipts plus interest’ means the level of excise taxes and interest credited to the Airport and Airway Trust Fund under section 9502 of the Internal Revenue Code of 1986 for a fiscal year as set forth in the President's budget baseline projection as defined in section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177) (Treasury identification code 20-8103-0-7-402) for that fiscal year submitted pursuant to section 1105 of title 31, United States Code.

“(c) ENFORCEMENT OF GUARANTEES.—

“(1) TOTAL AIRPORT AND AIRWAY TRUST FUND FUNDING.—It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report that would cause total budget resources in a fiscal year for aviation investment programs described in subsection (b) to be less than the amount required by subsection (a)(1)(A) for such fiscal year.

“(2) CAPITAL PRIORITY.—It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report that provides an appropriation (or any amendment thereto) for any fiscal year through fiscal year 2007 for Research and Development or Operations if the sum of the obligation limitation for Grants-in-Aid for Airports and the appropriation for Facilities and Equipment for such fiscal year is below the sum of the authorized levels for Grants-in-Aid for Airports and for Facilities and Equipment for such fiscal year.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 481 is amended by adding at the end the following:

“48114. Funding for aviation programs.”.

(c) REPEAL.—Section 106 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (49 U.S.C. 48101 note) is repealed.

#### SEC. 105. AGREEMENTS FOR OPERATION OF AIRPORT FACILITIES.

Section 47124 is amended—

(1) by striking subsection (a) and inserting the following:

“(a) GOVERNMENT RELIEF FROM LIABILITY.—The Secretary of Transportation shall ensure that an agreement under this subchapter with a qualified entity (as determined by the Secretary), State, or a political subdivision of a State to allow the entity, State, or subdivision to operate an airport facility relieves the United States Government from any liability arising out of, or related to, acts or omissions of employees of the entity, State, or subdivision in operating the airport facility.”;

(2) by striking subsection (b)(2) and inserting the following:

“(2) The Secretary may make a contract with a qualified entity (as determined by the Secretary) or, on a sole source basis, with a State or a political subdivision of a State to allow the entity, State, or subdivision to operate an airport traffic control tower classified as a level I (Visual Flight Rules) tower if the Secretary decides that the entity, State, or subdivision has the capability to comply with the requirements of this paragraph. The contract shall require that the entity, State, or subdivision comply with applicable safety regulations in operating the facility and with applicable competition requirements in making a subcontract to perform work to carry out the contract.”;

(3) subsection (b)(3)—

(A) in the paragraph heading by striking “PILOT”;

(B) by striking “pilot” each place it appears; and

(C) in subparagraph (E) by striking “\$6,000,000 per fiscal year” and inserting “\$6,500,000 for fiscal year 2004, \$7,000,000 for fiscal year 2005, \$7,500,000 for fiscal year 2006, and \$8,000,000 for fiscal year 2007”; and

(4) in subsection (b)(4)(C) by striking “\$1,100,000.” and inserting “\$1,500,000.”.

#### SEC. 106. INSURANCE.

(a) AIRCRAFT MANUFACTURERS.—

(1) IN GENERAL.—Section 44302 is amended by adding at the end the following:

“(g) AIRCRAFT MANUFACTURERS.—

“(1) IN GENERAL.—The Secretary may provide to an aircraft manufacturer insurance for loss or damage resulting from operation of an aircraft by an air carrier and involving war or terrorism.

“(2) AMOUNT.—Insurance provided by the Secretary under this subsection shall be for loss or damage in excess of the greater of the amount of available primary insurance or \$50,000,000.

“(3) TERMS AND CONDITIONS.—Insurance provided by the Secretary under this subsection shall be subject to the terms and conditions set forth in this chapter and such other terms and conditions as the Secretary may prescribe.”.

(2) DEFINITION OF AIRCRAFT MANUFACTURER.—Section 44301 is amended—

(A) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively; and

(B) by inserting before paragraph (2) (as so redesignated) the following:

“(1) ‘aircraft manufacturer’ means any company or other business entity, the majority ownership and control of which is by United States citizens, that manufactures aircraft or aircraft engines.”.

(3) COVERAGE.—Section 44303(a) is amended—

(A) in the subsection heading by striking “IN GENERAL” and inserting “IN GENERAL.”; and

(B) by adding at the end the following:

“(6) loss or damage of an aircraft manufacturer resulting from operation of an aircraft by an air carrier and involving war or terrorism.”.

(b) AIRCRAFT MANUFACTURER LIABILITY FOR THIRD PARTY CLAIMS ARISING OUT OF ACTS OF TERRORISM.—Section 44303(b) is amended by adding at the end the following: “The Secretary may extend the provisions of this subsection to an aircraft manufacturer (as defined in section 44301) of the aircraft of the air carrier involved.”.

(c) PREMIUMS AND LIMITATIONS ON COVERAGE AND CLAIMS.—Section 44306(b) is amended by striking “air” and inserting “insurance”.

(d) ENDING EFFECTIVE DATE.—Section 44310 is amended by striking “December 31, 2004” and inserting “March 30, 2008”.

(e) TECHNICAL CORRECTION.—Effective November 19, 2001, section 124(b) of the Aviation and Transportation Security Act (115 Stat. 631) is amended by striking “to carry out foreign policy” and inserting “to carry out the foreign policy”.

#### Subtitle B—Passenger Facility Fees

#### SEC. 121. LOW-EMISSION AIRPORT VEHICLES AND GROUND SUPPORT EQUIPMENT.

(a) IN GENERAL.—Section 40117(a)(3) is amended by inserting at the end the following:

“(G) A project for converting vehicles and ground support equipment used at a commercial service airport to low-emission technology (as defined in section 47102) or to use cleaner burning conventional fuels, retrofitting of any such vehicles or equipment that are powered by a diesel or gasoline engine with emission control technologies certified or verified by the Environmental Protection Agency to reduce emissions, or acquiring for use at a commercial service airport vehicles and ground support equipment that include low-emission technology or use cleaner burning fuels if the airport is located in an air quality nonattainment area (as defined in section 171(2) of the Clean Air Act (42 U.S.C. 7501(2)) or a maintenance area referred to in section 175A of such Act (42 U.S.C. 7505a) and if such project will result in an airport receiving appropriate emission credits as described in section 47139.”.

(b) MAXIMUM COST FOR CERTAIN LOW-EMISSION TECHNOLOGY PROJECTS.—Section 40117(b) is amended by adding at the end the following:

“(5) MAXIMUM COST FOR CERTAIN LOW-EMISSION TECHNOLOGY PROJECTS.—The maximum cost that may be financed by imposition of a passenger facility fee under this section for a project described in subsection (a)(3)(G) with respect to a vehicle or ground support equipment may not exceed the incremental amount of the project cost that is greater than the cost of acquiring a vehicle or equipment that is not low-emission and would be used for the same purpose, or the cost of low-emission retrofitting, as determined by the Secretary.”.

(c) GROUND SUPPORT EQUIPMENT DEFINED.—Section 40117(a) is amended—

(1) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively; and

(2) by inserting after paragraph (3) the following:

“(4) GROUND SUPPORT EQUIPMENT.—The term ‘ground support equipment’ means service and maintenance equipment used at an airport to support aeronautical operations and related activities.”.

(d) GUIDANCE.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall issue guidance determining eligibility of projects, and how benefits to air quality must be demonstrated, under the amendments made by this section.

#### SEC. 122. USE OF FEES TO PAY DEBT SERVICE.

Sections 40117(b) is further amended by adding at the end the following:

“(6) DEBT SERVICE FOR CERTAIN PROJECTS.—In addition to the uses specified in paragraphs (1) and (4), the Secretary may authorize a passenger facility fee imposed under paragraph (1) or (4) to be used for making payments for debt service on indebtedness incurred to carry out at the airport a project that is not an eligible airport-related project if the Secretary determines that such use is necessary due to the financial need of the airport.”.

#### SEC. 123. STREAMLINING OF THE PASSENGER FACILITY FEE PROGRAM.

(a) APPLICATION REQUIREMENTS.—Section 40117(c) is amended—

(1) by adding at the end of paragraph (2) the following:

“(E) The agency must include in its application or notice submitted under subparagraph (A) copies of all certifications of agreement or disagreement received under subparagraph (D).

“(F) For the purpose of this section, an eligible agency providing notice and an opportunity for consultation to an air carrier or foreign air carrier is deemed to have satisfied the requirements of this paragraph if the eligible agency limits such notices and consultations to air carriers and foreign air carriers that have a significant business interest at the airport. In the subparagraph, the term ‘significant business interest’ means an air carrier or foreign air carrier that had no less than 1.0 percent of passenger boardings at the airport in the prior calendar year, had at least 25,000 passenger boardings at the airport in the prior calendar year, or provides scheduled service at the airport.”;

(2) by redesignating paragraph (3) as paragraph (4);

(3) by inserting after paragraph (2) the following:

“(3) Before submitting an application, the eligible agency must provide reasonable notice and an opportunity for public comment. The Secretary shall prescribe regulations that define reasonable notice and provide for at least the following under this paragraph:

“(A) A requirement that the eligible agency provide public notice of intent to collect a passenger facility fee so as to inform those interested persons and agencies that may be affected. The public notice may include—

“(i) publication in local newspapers of general circulation;

“(ii) publication in other local media; and

“(iii) posting the notice on the agency’s Internet website.

“(B) A requirement for submission of public comments no sooner than 30 days, and no later than 45 days, after the date of the publication of the notice.

“(C) A requirement that the agency include in its application or notice submitted under subparagraph (A) copies of all comments received under subparagraph (B).”; and

(4) in the first sentence of paragraph (4) (as redesignated by paragraph (2) of this subsection) by striking “shall” and inserting “may”.

(b) PILOT PROGRAM FOR PASSENGER FACILITY FEE AUTHORIZATIONS AT NONHUB AIRPORTS.—Section 40117 is amended by adding at the end the following:

“(1) PILOT PROGRAM FOR PASSENGER FACILITY FEE AUTHORIZATIONS AT NONHUB AIRPORTS.—

“(1) IN GENERAL.—The Secretary shall establish a pilot program to test alternative procedures for authorizing eligible agencies for nonhub airports to impose passenger facility fees. An eligible agency may impose in accordance with the provisions of this subsection a passenger facility fee under this section. For purposes of the pilot program, the procedures in this subsection shall apply instead of the procedures otherwise provided in this section.

“(2) NOTICE AND OPPORTUNITY FOR CONSULTATION.—The eligible agency must provide reasonable notice and an opportunity for consultation to air carriers and foreign air carriers in accordance with subsection (c)(2) and must provide reasonable notice and opportunity for public comment in accordance with subsection (c)(3).

“(3) NOTICE OF INTENTION.—The eligible agency must submit to the Secretary a notice of intention to impose a passenger facility fee under this subsection. The notice shall include—

“(A) information that the Secretary may require by regulation on each project for which authority to impose a passenger facility fee is sought;

“(B) the amount of revenue from passenger facility fees that is proposed to be collected for each project; and

“(C) the level of the passenger facility fee that is proposed.

“(4) ACKNOWLEDGEMENT OF RECEIPT AND INDICATION OF OBJECTION.—The Secretary shall acknowledge receipt of the notice and indicate

any objection to the imposition of a passenger facility fee under this subsection for any project identified in the notice within 30 days after receipt of the eligible agency's notice.

"(5) **AUTHORITY TO IMPOSE FEE.**—Unless the Secretary objects within 30 days after receipt of the eligible agency's notice, the eligible agency is authorized to impose a passenger facility fee in accordance with the terms of its notice under this subsection.

"(6) **REGULATIONS.**—Not later than 180 days after the date of enactment of this subsection, the Secretary shall propose such regulations as may be necessary to carry out this subsection.

"(7) **SUNSET.**—This subsection shall cease to be effective beginning on the date that is 3 years after the date of issuance of regulations to carry out this subsection.

"(8) **ACKNOWLEDGEMENT NOT AN ORDER.**—An acknowledgement issued under paragraph (4) shall not be considered an order issued by the Secretary for purposes of section 46110."

(c) **CLARIFICATION OF APPLICABILITY OF PFC'S TO MILITARY CHARTERS.**—Section 40117(e)(2) is amended—

(1) by striking the period at the end of subparagraph (C) and inserting a semicolon;

(2) by striking "and" at the end of subparagraph (D);

(3) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(4) by adding after subparagraph (E) the following:

"(F) enplaning at an airport if the passenger did not pay for the air transportation which resulted in such enplanement due to charter arrangements and payment by the Department of Defense."

(d) **TECHNICAL AMENDMENTS.**—Section 40117(a)(3)(C) is amended—

(1) by striking "for costs" and inserting "A project for costs"; and

(2) by striking the semicolon and inserting a period.

(e) **ELIGIBILITY OF AIRPORT GROUND ACCESS TRANSPORTATION PROJECTS.**—Not later than 60 days after the enactment of this Act, the Administrator of the Federal Aviation Administration shall publish in the Federal Register the current policy of the Administration, consistent with current law, with respect to the eligibility of airport ground access transportation projects for the use of passenger facility fees under section 40117 of title 49, United States Code.

#### SEC. 124. FINANCIAL MANAGEMENT OF PASSENGER FACILITY FEES.

Section 40117 is further amended by adding at the end the following:

"(m) **FINANCIAL MANAGEMENT OF FEES.**—

"(1) **HANDLING OF FEES.**—A covered air carrier shall segregate in a separate account passenger facility revenue equal to the average monthly liability for fees collected under this section by such carrier or any of its agents for the benefit of the eligible agencies entitled to such revenue.

"(2) **TRUST FUND STATUS.**—If a covered air carrier or its agent fails to segregate passenger facility revenue in violation of the subsection, the trust fund status of such revenue shall not be defeated by an inability of any party to identify and trace the precise funds in the accounts of the air carrier.

"(3) **PROHIBITION.**—A covered air carrier and its agents may not grant to any third party any security or other interest in passenger facility revenue.

"(4) **COMPENSATION TO ELIGIBLE ENTITIES.**—A covered air carrier that fails to comply with any requirement of this subsection, or otherwise unnecessarily causes an eligible entity to expend funds, through litigation or otherwise, to recover or retain payment of passenger facility revenue to which the eligible entity is otherwise entitled shall be required to compensate the eligible agency for the costs so incurred.

"(5) **INTEREST ON AMOUNTS.**—A covered air carrier that collects passenger facility fees is entitled to receive the interest on passenger facility

fee accounts if the accounts are established and maintained in compliance with this subsection.

"(6) **EXISTING REGULATIONS.**—The provisions of section 158.49 of title 14, Code of Federal Regulations, that permit the commingling of passenger facility fees with other air carrier revenue shall not apply to a covered air carrier.

"(7) **COVERED AIR CARRIER DEFINED.**—In this section, the term "covered air carrier" means an air carrier that files for chapter 7 or chapter 11 of title 11 bankruptcy protection, or has an involuntary chapter 7 of title 11 bankruptcy proceeding commenced against it, after the date of enactment of this subsection."

#### Subtitle C—AIP Modifications

##### SEC. 141. AIRFIELD PAVEMENT.

Section 47102(3)(H) is amended by inserting "nonhub airports and" before "airports that are not primary airports".

##### SEC. 142. REPLACEMENT OF BAGGAGE CONVEYOR SYSTEMS.

Section 47102(3)(B)(x) is amended by striking the period at the end and inserting the following: "; except that such activities shall be eligible for funding under this subchapter only using amounts apportioned under section 47114."

##### SEC. 143. AUTHORITY TO USE CERTAIN FUNDS FOR AIRPORT SECURITY PROGRAMS AND ACTIVITIES.

Section 308 of the Federal Aviation Reauthorization Act of 1996 (49 U.S.C. 44901 note; 110 Stat. 3253), and the item relating to such section in the table of contents contained in section 1(b) of that Act, are repealed.

##### SEC. 144. GRANT ASSURANCES.

(a) **STATUTE OF LIMITATIONS.**—Section 47107(l)(5)(A) is amended by inserting "or any other governmental entity" after "sponsor".

(b) **AUDIT CERTIFICATION.**—Section 47107(m) is amended—

(1) in paragraph (1) by striking "promulgate regulations that" and inserting "include a provision in the compliance supplement provisions to";

(2) in paragraph (1) by striking "and opinion of the review"; and

(3) by striking paragraph (3).

##### SEC. 145. CLARIFICATION OF ALLOWABLE PROJECT COSTS.

Section 47110(b)(1) is amended by inserting before the semicolon at the end "and any cost of moving a Federal facility impeding the project if the rebuilt facility is of an equivalent size and type".

##### SEC. 146. APPORTIONMENTS TO PRIMARY AIRPORTS.

(a) **IN GENERAL.**—Section 47114(c)(1) is amended by adding at the end the following:

"(F) **SPECIAL RULE FOR FISCAL YEARS 2004 AND 2005.**—Notwithstanding subparagraph (A) and the absence of scheduled passenger aircraft service at an airport, the Secretary may apportion in fiscal years 2004 and 2005 to the sponsor of the airport an amount equal to the amount apportioned to that sponsor in fiscal year 2002 or 2003, whichever amount is greater, if the Secretary finds that—

"(i) the passenger boardings at the airport were below 10,000 in calendar year 2002 or 2003;

"(ii) the airport had at least 10,000 passenger boardings and scheduled passenger aircraft service in either calendar year 2000 or 2001; and

"(iii) the reason that passenger boardings described in clause (i) were below 10,000 was the decrease in passengers following the terrorist attacks of September 11, 2001."

(b) **SPECIAL RULE FOR TRANSITIONING AIRPORTS.**—Section 47114(f)(3) is amended—

(1) in the paragraph heading by striking "AIRPORTS" and inserting "AIRPORTS"; and

(2) in subparagraph (B) by striking "fiscal years 2000 through 2003" and inserting "fiscal year 2004".

##### SEC. 147. CARGO AIRPORTS.

Section 47114(c)(2) is amended—

(1) in the paragraph heading by striking "ONLY"; and

(2) in subparagraph (A) by striking "3 percent" and inserting "3.5 percent".

##### SEC. 148. CONSIDERATIONS IN MAKING DISCRETIONARY GRANTS.

Section 47115(d) is amended to read as follows:

"(d) **CONSIDERATIONS.**—

"(1) **FOR CAPACITY ENHANCEMENT PROJECTS.**—In selecting a project for a grant to preserve and improve capacity funded in whole or in part from the fund, the Secretary shall consider—

"(A) the effect that the project will have on overall national transportation system capacity;

"(B) the benefit and cost of the project, including, in the case of a project at a reliever airport, the number of operations projected to be diverted from a primary airport to the reliever airport as a result of the project, as well as the cost savings projected to be realized by users of the local airport system;

"(C) the financial commitment from non-United States Government sources to preserve or improve airport capacity;

"(D) the airport improvement priorities of the States to the extent such priorities are not in conflict with subparagraphs (A) and (B); and

"(E) the projected growth in the number of passengers or aircraft that will be using the airport at which the project will be carried out.

"(F) the ability of the project to foster United States competitiveness in securing global air cargo activity at a United States airport."

"(2) **FOR ALL PROJECTS.**—In selecting a project for a grant under this section, the Secretary shall consider among other factors whether—

"(A) funding has been provided for all other projects qualifying for funding during the fiscal year under this chapter that have attained a higher score under the numerical priority system employed by the Secretary in administering the fund; and

"(B) the sponsor will be able to commence the work identified in the project application in the fiscal year in which the grant is made or within 6 months after the grant is made, whichever is later."

##### SEC. 149. FLEXIBLE FUNDING FOR NONPRIMARY AIRPORT APPORTIONMENTS.

(a) **PROJECT GRANT AGREEMENTS.**—Section 47108(a) is amended by inserting "or 47114(d)(3)(A)" after "under section 47114(c)".

(b) **ALLOWABLE PROJECT COSTS.**—Section 47110 is amended—

(1) in subsection (b)(2)(C) by striking "of this title" and inserting "or section 47114(d)(3)(A)";

(2) in subsection (g)—

(A) by inserting "or section 47114(d)(3)(A)" after "of section 47114(c)"; and

(B) by striking "of project" and inserting "of the project"; and

(3) by adding at the end the following:

"(h) **NONPRIMARY AIRPORTS.**—The Secretary may decide that the costs of revenue producing aeronautical support facilities, including fuel farms and hangars, are allowable for an airport development project at a nonprimary airport if the Government's share of such costs is paid only with funds apportioned to the airport sponsor under section 47114(d)(3)(A) and if the Secretary determines that the sponsor has made adequate provision for financing airside needs of the airport."

(c) **WAIVER.**—Section 47117(c)(2) is amended to read as follows:

"(2) **WAIVER.**—A sponsor of an airport may make an agreement with the Secretary of Transportation waiving the sponsor's claim to any part of the amount apportioned for the airport under sections 47114(c) and 47114(d)(3)(A) if the Secretary agrees to make the waived amount available for a grant for another public-use airport in the same State or geographical area as the airport, as determined by the Secretary."

(d) **TERMINAL DEVELOPMENT COSTS.**—Section 47119(b) is amended—

(1) by striking "or" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting “; or”; and

(3) by adding at the end the following:

“(5) to a sponsor of a nonprimary airport, any part of amounts apportioned to the sponsor for the fiscal year under section 47114(d)(3)(A) for project costs allowable under section 47110(d).”.

#### SEC. 150. USE OF APPORTIONED AMOUNTS.

The first sentence of section 47117(b) is amended by striking “primary airport” and all that follows through “calendar year” and inserting “nonhub airport or any airport that is not a commercial service airport”.

#### SEC. 151. INCREASE IN APPORTIONMENT FOR, AND FLEXIBILITY OF, NOISE COMPATIBILITY PLANNING PROGRAMS.

Section 47117(e)(1)(A) is amended—

(1) by striking “At least 34 percent” and inserting “At least 35 percent”; and

(2) by striking “of this title and” and inserting a comma;

(3) by striking “of this title.” and inserting “, for noise mitigation projects approved in an environmental record of decision for an airport development project under this title, for compatible land use planning and projects carried out by State and local governments under section 47141, and for airport development described in section 47102(3)(F), 47102(3)(K), or 47102(3)(L) to comply with the Clean Air Act (42 U.S.C. 7401 et seq.).”; and

(4) by striking “34 percent requirement” and inserting “35 percent requirement”.

#### SEC. 152. PILOT PROGRAM FOR PURCHASE OF AIRPORT DEVELOPMENT RIGHTS.

(a) IN GENERAL.—Chapter 471 is amended by adding at the end the following:

##### “§47138. Pilot program for purchase of airport development rights

“(a) IN GENERAL.—The Secretary of Transportation shall establish a pilot program to support the purchase, by a State or political subdivision of a State, of development rights associated with, or directly affecting the use of, privately owned public use airports located in that State. Under the program, the Secretary may make a grant to a State or political subdivision of a State from funds apportioned under section 47114 for the purchase of such rights.

“(b) GRANT REQUIREMENTS.—

“(1) IN GENERAL.—The Secretary may not make a grant under subsection (a) unless the grant is made—

“(A) to enable the State or political subdivision to purchase development rights in order to ensure that the airport property will continue to be available for use as a public airport; and

“(B) subject to a requirement that the State or political subdivision acquire an easement or other appropriate covenant requiring that the airport shall remain a public use airport in perpetuity.

“(2) MATCHING REQUIREMENT.—The amount of a grant under the program may not exceed 90 percent of the costs of acquiring the development rights.

“(c) GRANT STANDARDS.—The Secretary shall prescribe standards for grants under subsection (a), including—

“(1) grant application and approval procedures; and

“(2) requirements for the content of the instrument recording the purchase of the development rights.

“(d) RELEASE OF PURCHASED RIGHTS AND COVENANT.—Any development rights purchased under the program shall remain the property of the State or political subdivision unless the Secretary approves the transfer or disposal of the development rights after making a determination that the transfer or disposal of that right is in the public interest.

“(e) LIMITATION.—The Secretary may not make a grant under the pilot program for the purchase of development rights at more than 10 airports.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 471 is amended by inserting after the item relating to section 47137 the following:

“47138. Pilot program for purchase of airport development rights”.

#### SEC. 153. MILITARY AIRPORT PROGRAM.

Section 47118 is amended—

(1) in subsection (e) by striking “Not more than \$7,000,000 for each airport from amounts the Secretary distributes under section 47115 of this title for a fiscal year is available” and inserting “From amounts the Secretary distributes to an airport under section 47115, \$10,000,000 for each of fiscal years 2004 and 2005, and \$7,000,000 for each fiscal year thereafter, is available”; and

(2) in subsection (f)—

(A) by striking “Not more than a total of \$7,000,000 for each airport from amounts the Secretary distributes under section 47115 of this title for fiscal years beginning after September 30, 1992, is available” and inserting the following:

“(1) CONSTRUCTION.—From amounts the Secretary distributes to an airport under section 47115, \$10,000,000 for each of fiscal years 2004 and 2005, and \$7,000,000 for each fiscal year thereafter, is available”; and

(2) by adding at the end the following:

“(2) REIMBURSEMENT.—Upon approval of the Secretary, the sponsor of a current or former military airport the Secretary designates under this section may use an amount apportioned under section 47114, or made available under section 47119(b), to the airport for reimbursement of costs incurred by the airport in fiscal years 2003 and 2004 for construction, improvement, or repair described in paragraph (1).”.

#### SEC. 154. AIRPORT SAFETY DATA COLLECTION.

Section 47130 is amended to read as follows:

##### “§47130. Airport safety data collection

“Notwithstanding any other provision of law, the Administrator of the Federal Aviation Administration may award a contract, using sole source or limited source authority, or enter into a cooperative agreement with, or provide a grant from amounts made available under section 48103 to, a private company or entity for the collection of airport safety data. In the event that a grant is provided under this section, the United States Government’s share of the cost of the data collection shall be 100 percent.”.

#### SEC. 155. AIRPORT PRIVATIZATION PILOT PROGRAM.

(a) IN GENERAL.—Section 47134(b)(1) is amended—

(i) in subparagraph (A) by striking clauses (i) and (ii) and inserting the following:

“(i) in the case of a primary airport, by at least 65 percent of the scheduled air carriers serving the airport and by scheduled and non-scheduled air carriers whose aircraft landing at the airport during the preceding calendar year, had a total landed weight during the preceding calendar year of at least 65 percent of the total landed weight of all aircraft landing at the airport during such year; or

“(ii) in the case of a nonprimary airport, by the Secretary after the airport has consulted with at least 65 percent of the owners of aircraft based at that airport, as determined by the Secretary.”.

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following:

“(B) OBJECTION TO EXEMPTION.—An air carrier shall be deemed to have approved a sponsor’s application for an exemption under subparagraph (A) unless the air carrier has submitted an objection, in writing, to the sponsor within 60 days of the filing of the sponsor’s application with the Secretary, or within 60 days of the service of the application upon that air carrier, whichever is later.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall not affect any application submitted before the date of enactment of this Act.

#### SEC. 156. INNOVATIVE FINANCING TECHNIQUES.

(a) ELIGIBLE PROJECTS.—The first sentence of section 47135(a) is amended by inserting after “approve” the following: “, after the date of enactment of the Vision 100—Century of Aviation Reauthorization Act.”.

#### SEC. 157. AIRPORT SECURITY PROGRAM.

Section 47137 is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (d) the following:

“(e) ADMINISTRATION.—The Secretary, in cooperation with the Secretary of Homeland Security, shall administer the program authorized by this section.”.

#### SEC. 158. EMISSION CREDITS FOR AIR QUALITY PROJECTS.

(a) EMISSIONS CREDIT.—Subchapter I of chapter 471 is further amended by adding at the end the following:

##### “§47139. Emission credits for air quality projects

“(a) IN GENERAL.—The Administrator of the Environmental Protection Agency, in consultation with the Secretary of Transportation, shall issue guidance on how to ensure that airport sponsors receive appropriate emission reduction credits for carrying out projects described in sections 40117(a)(3)(G), 47102(3)(F), 47102(3)(K), and 47102(3)(L). Such guidance shall include, at a minimum, the following conditions:

“(1) The provision of credits is consistent with the Clean Air Act (42 U.S.C. 7402 et seq.).

“(2) Credits generated by the emissions reductions are kept by the airport sponsor and may only be used for purposes of any current or future general conformity determination under the Clean Air Act or as offsets under the Environmental Protection Agency’s new source review program for projects on the airport or associated with the airport.

“(3) Credits are calculated and provided to airports on a consistent basis nationwide.

“(4) Credits are provided to airport sponsors in a timely manner.

“(5) The establishment of a method to assure the Secretary that, for any specific airport project for which funding is being requested, the appropriate credits will be granted.

“(b) ASSURANCE OF RECEIPT OF CREDITS.—As a condition for making a grant for a project described in section 47102(3)(F), 47102(3)(K), 47102(3)(L), or 47140 or as a condition for granting approval to collect or use a passenger facility fee for a project described in section 40117(a)(3)(G), 47103(3)(F), 47102(3)(K), 47102(3)(L), or 47140, the Secretary must receive assurance from the State in which the project is located, or from the Administrator of the Environmental Protection Agency where there is a Federal implementation plan, that the airport sponsor will receive appropriate emission credits in accordance with the conditions of this section.

“(c) PREVIOUSLY APPROVED PROJECTS.—The Administrator of the Environmental Protection Agency, in consultation with the Secretary, shall determine how to provide appropriate emissions credits to airport projects previously approved under section 47136 consistent with the guidance and conditions specified in subsection (a).

“(d) STATE AUTHORITY UNDER CAA.—Nothing in this section shall be construed as overriding existing State law or regulation pursuant to section 116 of the Clean Air Act (42 U.S.C. 7416).”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 471 is amended by inserting after the item relating to section 47138 the following:

“47139. Emission credits for air quality projects.”.

#### SEC. 159. LOW-EMISSION AIRPORT VEHICLES AND INFRASTRUCTURE.

(a) AIRPORT GROUND SUPPORT EQUIPMENT EMISSIONS RETROFIT PILOT PROGRAM.—



(1) IN GENERAL.—Subchapter I of chapter 471 is further amended by adding at the end the following:

**“§47140. Airport ground support equipment emissions retrofit pilot program**

“(a) IN GENERAL.—The Secretary of Transportation shall carry out a pilot program at not more than 10 commercial service airports under which the sponsors of such airports may use an amount made available under section 48103 to retrofit existing eligible airport ground support equipment that burns conventional fuels to achieve lower emissions utilizing emission control technologies certified or verified by the Environmental Protection Agency.

“(b) LOCATION IN AIR QUALITY NONATTAINMENT OR MAINTENANCE AREAS.—A commercial service airport shall be eligible for participation in the pilot program only if the airport is located in an air quality nonattainment area (as defined in section 171(2) of the Clean Air Act (42 U.S.C. 7501(2)) or a maintenance area referred to in section 175A of such Act (42 U.S.C. 7505a).

“(c) SELECTION CRITERIA.—In selecting from among applicants for participation in the pilot program, the Secretary shall give priority consideration to applicants that will achieve the greatest air quality benefits measured by the amount of emissions reduced per dollar of funds expended under the pilot program.

“(d) MAXIMUM AMOUNT.—Not more than \$500,000 may be expended under the pilot program at any single commercial service airport.

“(e) GUIDELINES.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall establish guidelines regarding the types of retrofit projects eligible under the pilot program by considering remaining equipment useful life, amounts of emission reduction in relation to the cost of projects, and other factors necessary to carry out this section. The Secretary may give priority to ground support equipment owned by the airport and used for airport purposes.

“(f) ELIGIBLE EQUIPMENT DEFINED.—In this section, the term ‘eligible equipment’ means ground service or maintenance equipment that is located at the airport, is used to support aeronautical and related activities at the airport, and will remain in operation at the airport for the life or useful life of the equipment, whichever is earlier.”

(2) CONFORMING AMENDMENT.—The analysis for chapter 471 is amended by inserting after the item relating to section 47139 the following:

“47140. Airport ground support equipment emissions retrofit pilot program.”

(b) ACTIVITIES ADDED TO DEFINITION OF AIRPORT DEVELOPMENT.—

(1) IN GENERAL.—Section 47102(3) is amended—

(A) by striking subparagraphs (J), (K), and (L) and redesignating subparagraph (M) as subparagraph (J); and

(B) by adding at the end the following:

“(K) work necessary to construct or modify airport facilities to provide low-emission fuel systems, gate electrification, and other related air quality improvements at a commercial service airport if the airport is located in an air quality nonattainment or maintenance area (as defined in sections 171(2) and 175A of the Clean Air Act (42 U.S.C. 7501(2); 7505a) and if such project will result in an airport receiving appropriate emission credits, as described in section 47139.

“(L) a project for the acquisition or conversion of vehicles and ground support equipment, owned by a commercial service airport, to low-emission technology, if the airport is located in an air quality nonattainment or maintenance area (as defined in sections 171(2) and 175A of the Clean Air Act (42 U.S.C. 7501(2); 7505a) and if such project will result in an airport receiving appropriate emission credits as described in section 47139.”

(2) GUIDANCE.—

(A) ELIGIBLE LOW-EMISSION MODIFICATIONS AND IMPROVEMENTS.—The Secretary of Transportation, in consultation with the Administrator of the Environmental Protection Agency, shall issue guidance describing eligible low-emission modifications and improvements, and stating how airport sponsors will demonstrate benefits, under section 47102(3)(K) of title 49, United States Code, as added by this subsection.

(B) ELIGIBLE LOW-EMISSION VEHICLE TECHNOLOGY.—The Secretary, in consultation with the Administrator, shall issue guidance describing eligible low-emission vehicle technology, and stating how airport sponsors will demonstrate benefits, under section 47102(3)(L) of title 49, United States Code, as added by this subsection.

(c) ALLOWABLE PROJECT COST.—Section 47110(b) is amended—

(1) by striking “and” at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting “; and”; and

(3) by adding at the end the following:

“(6) if the cost is for a project not described in section 47102(3) for acquiring for use at a commercial service airport vehicles and ground support equipment owned by an airport that include low-emission technology, but only to the extent of the incremental cost of equipping such vehicles or equipment with low emission technology, as determined by the Secretary.”

(d) LOW-EMISSION TECHNOLOGY EQUIPMENT.—Section 47102 (as amended by section 801 of this Act) is further amended by inserting after paragraph (10) the following:

“(11) ‘low-emission technology’ means technology for vehicles and equipment whose emission performance is the best achievable under emission standards established by the Environmental Protection Agency and that relies exclusively on alternative fuels that are substantially non-petroleum based, as defined by the Department of Energy, but not excluding hybrid systems or natural gas powered vehicles.”

**SEC. 160. COMPATIBLE LAND USE PLANNING AND PROJECTS BY STATE AND LOCAL GOVERNMENTS.**

(a) IN GENERAL.—Subchapter I of chapter 471 is further amended by adding at the end the following:

**“§47141. Compatible land use planning and projects by State and local governments**

“(a) IN GENERAL.—The Secretary of Transportation may make grants, from amounts set aside under section 47117(e)(1)(A), to States and units of local government for development and implementation of land use compatibility plans and implementation of land use compatibility projects resulting from those plans for the purposes of making the use of land areas around large hub airports and medium hub airports compatible with aircraft operations. The Secretary may make a grant under this section for a land use compatibility plan or a project resulting from such plan only if—

“(1) the airport operator has not submitted a noise compatibility program to the Secretary under section 47504 or has not updated such program within the preceding 10 years; and

“(2) the land use plan or project meets the requirements of this section.

“(b) ELIGIBILITY.—In order to receive a grant under this section, a State or unit of local government must—

“(1) have the authority to plan and adopt land use control measures, including zoning, in the planning area in and around a large or medium hub airport;

“(2) enter into an agreement with the airport owner or operator that the development of the land use compatibility plan will be done cooperatively; and

“(3) provide written assurance to the Secretary that it will achieve, to the maximum extent possible, compatible land uses consistent with Federal land use compatibility criteria under section 47502(3) and that those compatible land uses will be maintained.

“(c) ASSURANCES.—The Secretary shall require a State or unit of local government to which a

grant may be made under this section for a land use plan or a project resulting from such plan to provide—

“(1) assurances satisfactory to the Secretary that the plan—

“(A) is reasonably consistent with the goal of reducing existing noncompatible land uses and preventing the introduction of additional non-compatible land uses;

“(B) addresses ways to achieve and maintain compatible land uses, including zoning, building codes, and any other land use compatibility measures under section 47504(a)(2) that are within the authority of the State or unit of local government to implement;

“(C) uses noise contours provided by the airport operator that are consistent with the airport operation and planning, including any noise abatement measures adopted by the airport operator as part of its own noise mitigation efforts;

“(D) does not duplicate, and is not inconsistent with, the airport operator’s noise compatibility measures for the same area; and

“(E) has been approved jointly by the airport owner or operator and the State or unit of local government; and

“(2) such other assurances as the Secretary determines to be necessary to carry out this section.

“(d) GUIDELINES.—The Secretary shall establish guidelines to administer this section in accordance with the purposes and conditions described in this section. The Secretary may require a State or unit of local government to which a grant may be made under this section to provide progress reports and other information as the Secretary determines to be necessary to carry out this section.

“(e) ELIGIBLE PROJECTS.—The Secretary may approve a grant under this section to a State or unit of local government for a project resulting from a land use compatibility plan only if the Secretary is satisfied that the project is consistent with the guidelines established by the Secretary under this section, the State or unit of local government has provided the assurances required by this section, the State or unit of local government has implemented (or has made provision to implement) those elements of the plan that are not eligible for Federal financial assistance, and that the project is not inconsistent with applicable Federal Aviation Administration standards.

“(f) SUNSET.—This section shall not be in effect after September 30, 2007.”

(b) CONFORMING AMENDMENT.—The analysis of subchapter I of chapter 471 is further amended by adding at the end the following:

“47141. Compatible land use planning and projects by State and local governments.”

**SEC. 161. TEMPORARY INCREASE IN GOVERNMENT SHARE OF CERTAIN AIP PROJECT COSTS.**

Notwithstanding section 47109(a) of title 49, United States Code, the Government’s share of allowable project costs for a grant made in each of fiscal years 2004 through 2007 under chapter 471 of that title for a project described in paragraph (2) or (3) of that section shall be 95 percent.

**SEC. 162. SHARE OF AIRPORT PROJECT COSTS.**

(a) IN GENERAL.—Section 47109 is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

“(c) GRANDFATHER RULE.—

“(1) IN GENERAL.—In the case of any project approved after September 30, 2003, at a small hub airport or nonhub airport that is located in a State containing unappropriated and unreserved public lands and nontaxable Indian lands (individual and tribal) of more than 5 percent of the total area of all lands in the State, the Government’s share of allowable costs of the

project shall be increased by the same ratio as the basic share of allowable costs of a project divided into the increased (Public Lands States) share of allowable costs of a project as shown on documents of the Federal Aviation Administration dated August 3, 1979, at airports for which the general share was 80 percent on August 3, 1979. This subsection shall apply only if—

“(A) the State contained unappropriated and unreserved public lands and nontaxable Indian lands of more than 5 percent of the total area of all lands in the State on August 3, 1979; and

“(B) the application under subsection (b), does not increase the Government's share of allowable costs of the project.

“(2) LIMITATION.—The Government's share of allowable project costs determined under this subsection shall not exceed the lesser of 93.75 percent or the highest percentage Government share applicable to any project in any State under subsection (b).”.

(b) CONFORMING AMENDMENT.—Subsection (a) of section 47109 is amended by striking “Except as provided in subsection (b)”, and inserting “Except as provided in subsection (b) or subsection (c)”.

#### SEC. 163. FEDERAL SHARE FOR PRIVATE OWNERSHIP OF AIRPORTS.

Section 47109(a)(4) is amended by striking “40 percent” and inserting “70 percent”.

#### SEC. 164. DISPOSITION OF LAND ACQUIRED FOR NOISE COMPATIBILITY PURPOSES.

Section 47107(c)(2)(A)(iii) is amended by inserting before the semicolon at the end the following: “, including the purchase of nonresidential buildings or property in the vicinity of residential buildings or property previously purchased by the airport as part of a noise compatibility program”.

#### SEC. 165. HANGAR CONSTRUCTION GRANT ASSURANCE.

Section 47107(a) is amended—

(1) by striking “and” at the end of paragraph (19);

(2) by striking the period at the end of paragraph (20) and inserting “; and”; and

(3) by adding at the end the following:

“(21) if the airport owner or operator and a person who owns an aircraft agree that a hangar is to be constructed at the airport for the aircraft at the aircraft owner's expense, the airport owner or operator will grant to the aircraft owner for the hangar a long-term lease that is subject to such terms and conditions on the hangar as the airport owner or operator may impose.”.

#### SEC. 166. TERMINAL DEVELOPMENT COSTS.

Section 47119(a) is amended to read as follows:

“(a) REPAYING BORROWED MONEY.—

“(1) TERMINAL DEVELOPMENT COSTS INCURRED AFTER JUNE 30, 1970, AND BEFORE JULY 12, 1976.—An amount apportioned under section 47114 and made available to the sponsor of a commercial service airport at which terminal development was carried out after June 30, 1970, and before July 12, 1976, is available to repay immediately money borrowed and used to pay the costs for such terminal development if those costs would be allowable project costs under section 47110(d) if they had been incurred after September 3, 1982.

“(2) TERMINAL DEVELOPMENT COSTS INCURRED BETWEEN JANUARY 1, 1992, AND OCTOBER 31, 1992.—An amount apportioned under section 47114 and made available to the sponsor of a nonhub airport at which terminal development was carried out between January 1, 1992, and October 31, 1992, is available to repay immediately money borrowed and to pay the costs for such terminal development if those costs would be allowable project costs under section 47110(d).

“(3) TERMINAL DEVELOPMENT COSTS AT PRIMARY AIRPORTS.—An amount apportioned under section 47114 or available under subsection (b)(3) to a primary airport—

“(A) that was a nonhub airport in the most recent year used to calculate apportionments under section 47114;

“(B) that is a designated airport under section 47118 in fiscal year 2003; and

“(C) at which terminal development is carried out between January 2003 and August 2004, is available to repay immediately money borrowed and used to pay the costs for such terminal development if those costs would be allowable project costs under section 47110(d).

“(4) CONDITIONS FOR GRANT.—An amount is available for a grant under this subsection only if—

“(A) the sponsor submits the certification required under section 47110(d);

“(B) the Secretary of Transportation decides that using the amount to repay the borrowed money will not defer an airport development project outside the terminal area at that airport; and

“(C) amounts available for airport development under this subchapter will not be used for additional terminal development projects at the airport for at least 1 year beginning on the date the grant is used to repay the borrowed money.

“(5) APPLICABILITY OF CERTAIN LIMITATIONS.—A grant under this subsection shall be subject to the limitations in subsection (b)(1) and (2).”.

#### Subtitle D—Miscellaneous

#### SEC. 181. DESIGN-BUILD CONTRACTING.

(a) IN GENERAL.—Subchapter I of chapter 471 is further amended by adding at the end the following:

##### “§47142. Design-build contracting

“(a) IN GENERAL.—The Administrator of the Federal Aviation Administration may approve an application of an airport sponsor under this section to authorize the airport sponsor to award a design-build contract using a selection process permitted under applicable State or local law if—

“(1) the Administrator approves the application using criteria established by the Administrator;

“(2) the design-build contract is in a form that is approved by the Administrator;

“(3) the Administrator is satisfied that the contract will be executed pursuant to competitive procedures and contains a schematic design adequate for the Administrator to approve the grant;

“(4) use of a design-build contract will be cost effective and expedite the project;

“(5) the Administrator is satisfied that there will be no conflict of interest; and

“(6) the Administrator is satisfied that the selection process will be as open, fair, and objective as the competitive bid system and that at least 3 or more bids will be submitted for each project under the selection process.

“(b) REIMBURSEMENT OF COSTS.—The Administrator may reimburse an airport sponsor for design and construction costs incurred before a grant is made pursuant to this section if the project is approved by the Administrator in advance and is carried out in accordance with all administrative and statutory requirements that would have been applicable under this chapter if the project were carried out after a grant agreement had been executed.

“(c) DESIGN-BUILD CONTRACT DEFINED.—In this section, the term ‘design-build contract’ means an agreement that provides for both design and construction of a project by a contractor.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 471 is amended by inserting after the item relating to section 47141 the following:

“47142. Design-build contracting.”.

#### SEC. 182. PILOT PROGRAM FOR INNOVATIVE FINANCING OF AIR TRAFFIC CONTROL EQUIPMENT.

(a) IN GENERAL.—In order to test the cost effectiveness and feasibility of long-term financing of modernization of major air traffic control systems, the Administrator of the Federal Aviation Administration may establish a pilot pro-

gram to test innovative financing techniques through amending, subject to section 1341 of title 31, United States Code, a contract for more than one, but not more than 20, fiscal years to purchase and install air traffic control equipment for the Administration. Such amendments may be for more than one, but not more than 10, fiscal years.

(b) CANCELLATION.—A contract described in subsection (a) may include a cancellation provision if the Administrator determines that such a provision is necessary and in the best interest of the United States. Any such provision shall include a cancellation liability schedule that covers reasonable and allocable costs incurred by the contractor through the date of cancellation plus reasonable profit, if any, on those costs. Any such provision shall not apply if the contract is terminated by default of the contractor.

(c) CONTRACT PROVISIONS.—If feasible and practicable for the pilot program, the Administrator may make an advance contract provision to achieve economic-lot purchases and more efficient production rates.

(d) LIMITATION.—The Administrator may not amend a contract under this section until the program for the terminal automation replacement systems has been rebaselined in accordance with the acquisition management system of the Administration.

(e) ANNUAL REPORTS.—At the end of each fiscal year during the term of the pilot program, the Administrator shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on how the Administrator has implemented in such fiscal year the pilot program, the number and types of contracts or contract amendments that are entered into under the program, and the program's cost effectiveness.

(f) FUNDING.—Out of amounts appropriated under section 48101 for fiscal year 2004, such sums as may be necessary shall be available to carry out this section.

#### SEC. 183. COST SHARING OF AIR TRAFFIC MODERNIZATION PROJECTS.

(a) IN GENERAL.—Chapter 445 is amended by adding at the end the following:

##### “§44517. Program to permit cost sharing of air traffic modernization projects

“(a) IN GENERAL.—Subject to the requirements of this section, the Secretary may carry out a program under which the Secretary may make grants to project sponsors for not more than 10 eligible projects per fiscal year for the purpose of improving aviation safety and enhancing mobility of the Nation's air transportation system by encouraging non-Federal investment in critical air traffic control equipment and software.

“(b) FEDERAL SHARE.—The Federal share of the cost of an eligible project carried out under the program shall not exceed 33 percent. The non-Federal share of the cost of an eligible project shall be provided from non-Federal sources, including revenues collected pursuant to section 40117.

“(c) LIMITATION ON GRANT AMOUNTS.—No eligible project may receive more than \$5,000,000 in Federal funds under the program.

“(d) FUNDING.—The Secretary shall use amounts appropriated under section 48101(a) to carry out the program.

“(e) DEFINITIONS.—In this section, the following definitions apply:

“(1) ELIGIBLE PROJECT.—The term ‘eligible project’ means a project to purchase equipment or software relating to the Nation's air traffic control system that is certified or approved by the Administrator of the Federal Aviation Administration and that promotes safety, efficiency, or mobility. Such projects may include—

“(A) airport-specific air traffic facilities and equipment, including local area augmentation systems, instrument landing systems, weather and wind shear detection equipment, and lighting improvements;



“(B) automation tools to effect improvements in airport capacity, including passive final approach spacing tools and traffic management advisory equipment; and

“(C) equipment and software that enhance airspace control procedures or assist in en route surveillance, including oceanic and offshore flight tracking.

“(2) **PROJECT SPONSOR.**—The term ‘project sponsor’ means any major user of the national airspace system, as determined by the Secretary, including a public-use airport or a joint venture between a public-use airport and one or more air carriers.

“(f) **TRANSFERS OF EQUIPMENT.**—Notwithstanding any other provision of law, and upon agreement by the Administrator, a project sponsor may transfer, without consideration, to the Federal Aviation Administration, facilities, equipment, or automation tools, the purchase of which was assisted by a grant made under this section, if such facilities, equipment or tools meet Federal Aviation Administration operation and maintenance criteria.

“(g) **GUIDELINES.**—The Administrator shall issue advisory guidelines on the implementation of the program. The guidelines shall not be subject to administrative rulemaking requirements under subchapter II of chapter 5 of title 5.”

(b) **CONFORMING AMENDMENT.**—The analysis for chapter 445 is amended by adding at the end the following:

“44517. Program to permit cost sharing of air traffic modernization projects.”.

#### **SEC. 184. FACILITIES AND EQUIPMENT REPORTS.**

(a) **BIANNUAL REPORTS.**—Beginning 180 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure every 6 months that describes—

(1) the 10 largest programs funded under section 48101(a) of title 49, United States Code;

(2) any changes in the budget for such programs;

(3) the program schedule; and

(4) technical risks associated with the programs.

(b) **SUNSET PROVISION.**—This section shall cease to be effective beginning on the date that is 4 years after the date of enactment of this Act.

#### **SEC. 185. CIVIL PENALTY FOR PERMANENT CLOSURE OF AN AIRPORT WITHOUT PROVIDING SUFFICIENT NOTICE.**

(a) **IN GENERAL.**—Chapter 463 is amended by adding at the end the following:

“§46319. **Permanent closure of an airport without providing sufficient notice**

“(a) **PROHIBITION.**—A public agency (as defined in section 47102) may not permanently close an airport listed in the national plan of integrated airport systems under section 47103 without providing written notice to the Administrator of the Federal Aviation Administration at least 30 days before the date of the closure.

“(b) **PUBLICATION OF NOTICE.**—The Administrator shall publish each notice received under subsection (a) in the Federal Register.

“(c) **CIVIL PENALTY.**—A public agency violating subsection (a) shall be liable for a civil penalty of \$10,000 for each day that the airport remains closed without having given the notice required by this section.”.

(b) **CONFORMING AMENDMENT.**—The analysis for chapter 463 is amended by adding at the end the following:

“46319. Permanent closure of an airport without providing sufficient notice.”.

#### **SEC. 186. MIDWAY ISLAND AIRPORT.**

(a) **FINDINGS.**—Congress finds that the continued operation of the Midway Island Airport in accordance with the standards of the Federal Aviation Administration applicable to commer-

cial airports is critical to the safety of commercial, military, and general aviation in the mid-Pacific Ocean region.

(b) **MEMORANDUM OF UNDERSTANDING ON SALE OF AIRCRAFT FUEL.**—The Secretaries of Transportation, Defense, Interior, and Homeland Security shall enter into a memorandum of understanding to facilitate the sale of aircraft fuel on Midway Island at a price that will generate sufficient revenue to improve the ability of the airport to operate on a self-sustaining basis in accordance with the standards of the Federal Aviation Administration applicable to commercial airports. The memorandum shall also address the long-range potential of promoting tourism as a means to generate revenue to operate the airport.

(c) **TRANSFER OF NAVIGATION AIDS AT MIDWAY ISLAND AIRPORT.**—The Midway Island Airport may transfer, without consideration, to the Administrator the navigation aids at the airport. The Administrator shall accept the navigation aids and operate and maintain the navigation aids under criteria of the Administrator.

(d) **FUNDING TO SECRETARY OF THE INTERIOR FOR MIDWAY ISLAND AIRPORT.**—The Secretary of Transportation may enter into a reimbursable agreement with the Secretary of the Interior for the purpose of funding airport development, as defined in section 47102(3) of title 49, United States Code, at Midway Island Airport for fiscal years ending before October 1, 2007, from amounts available in the discretionary fund established by section 47115 of such title. The maximum obligation under the agreement for any such fiscal year shall be \$2,500,000.

#### **SEC. 187. INTERMODAL PLANNING.**

Section 47106(c)(1)(A) is amended—

(1) by striking “and” at the end of clause (i);

(2) by adding “and” at the end of clause (ii); and

(3) by adding at the end the following:

“(iii) with respect to an airport development project involving the location of an airport, runway, or major runway extension at a medium or large hub airport, the airport sponsor has made available to and has provided upon request to the metropolitan planning organization in the area in which the airport is located, if any, a copy of the proposed amendment to the airport layout plan to depict the project and a copy of any airport master plan in which the project is described or depicted.”.

#### **SEC. 188. MARSHALL ISLANDS, MICRONESIA, AND PALAU.**

Section 47115 is amended by adding at the end the following:

“(j) **MARSHALL ISLANDS, MICRONESIA, AND PALAU.**—For fiscal years 2004 through 2007, the sponsors of airports located in the Republic of the Marshall Islands, Federated States of Micronesia, and Republic of Palau shall be eligible for grants under this section and section 47116.”.

#### **SEC. 189. LIMITATION ON APPROVAL OF CERTAIN PROGRAMS.**

Section 47504(b) is amended by adding at the end the following:

“(4) The Secretary shall not approve in fiscal years 2004 through 2007 a program submitted under subsection (a) if the program requires the expenditure of funds made available under section 48103 for mitigation of aircraft noise less than 65 DNL.”.

#### **SEC. 190. CONVEYANCE OF AIRPORT.**

(a) **OFFER OF CONVEYANCE.**—Subject to the requirements of this section, the Chaluka Corporation is hereby offered ownership of the surface estate in the former Nikolski Radio Relay Site on Umnak Island, Alaska, and the Aleut Corporation is hereby offered the subsurface estate of that Site, in exchange for relinquishment by the Chaluka Corporation and the Aleut Corporation of Lot 1, Section 14, Township 81 South, Range 133 West, Seward Meridian, Alaska.

(b) **ACCEPTANCE AND RELINQUISHMENT.**—

(1) **IN GENERAL.**—The Secretary of the Interior shall convey the land as provided in subsection

(c) if the Chaluka Corporation and the Aleut Corporation take the actions specified in paragraphs (2) and (3), respectively.

(2) **CHALUKA CORPORATION.**—As a condition for conveyance under subsection (c), the Chaluka Corporation shall notify the Secretary of the Interior within 180 days after the date of enactment of this Act that, by means of a legally binding resolution of the Board of Directors, the Chaluka Corporation—

(A) accepts the offer under subsection (a);

(B) confirms that the area surveyed by the Bureau of Land Management for the purpose of fulfilling the Chaluka Corporation's final entitlements under sections 12(a) and 12(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1611(a) and (b)), identified as Group Survey Number 773, accurately represents the Chaluka Corporation's final, irrevocable Alaska Native Claims Settlement Act priorities and entitlements unless any tract in Group Survey Number 773 is ultimately not conveyed as the result of an appeal; and

(C) relinquishes Lot 1, Section 14, Township 81 South, Range 133 West, Seward Meridian, Alaska, which will be charged against the Chaluka Corporation's final entitlement under section 12(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1611(b)).

(3) **ALEUT CORPORATION.**—As a condition for the conveyance under subsection (c), the Aleut Corporation shall notify the Secretary of the Interior within 180 days after the date of enactment of this Act that, by means of a legally binding resolution of the Board of Directors, accompanied by the written legal opinion of counsel as to the legal sufficiency of the Board of Directors' action, the Aleut Corporation—

(A) accepts the offer under subsection (a); and

(B) relinquishes all rights to Lot 1, Section 14, Township 81 South, Range 133 West, Seward Meridian, Alaska.

(c) **REQUIREMENT TO CONVEY.**—

(1) **CONVEYANCE.**—Notwithstanding the existence of Public Land Order 2374, upon receipt from the Chaluka Corporation and from the Aleut Corporation of their acceptances made in accordance with the requirements of subsections (b)(2) and (b)(3), respectively, of the offer under subsection (a), the Secretary of the Interior shall convey to the Chaluka Corporation the surface estate, and to the Aleut Corporation the subsurface estate, of—

(A) Phase I lands as soon as practicable; and

(B) each parcel of Phase II lands upon completion of environmental restoration of Phase II lands in accordance with applicable law.

(2) **PHASE I LIABILITY LIMIT.**—Notwithstanding section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607), neither the Chaluka Corporation nor the Aleut Corporation shall be subject to any liability for—

(A) the presence or release of a hazardous substance, as that term is defined by section 101(14) of that Act (16 U.S.C. 9601(14)), on Phase I lands or the presence of solid waste on Phase I lands, which predates conveyance of those lands to the Chaluka Corporation and the Aleut Corporation pursuant to this section; or

(B) any release, from any of the hazardous substances or solid wastes referred to in subparagraph (A), following conveyance of Phase I lands under this section, so long as the presence of or releases from those hazardous substances or solid wastes are not the result of actions by the Chaluka Corporation or the Aleut Corporation.

(3) **CONTINUED ACCESS OVER HILL AND BEACH STREETS.**—The surface estate conveyed under paragraph (1) shall be subject to the public's right of access over Hill and Beach Streets, located on Tract B of United States Survey 4904.

(d) **TREATMENT AS ANCSA LANDS.**—Conveyances made under subsection (c) shall be considered to be conveyances under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.),

and are subject to the provisions of that Act except sections 14(c)(3), 14(c)(4), and 17(b)(3) (43 U.S.C. 1613(c)(3), 1613(c)(4), and 1616(b)(3)).

(e) **AUTHORITY TO CONVEY CERTAIN OTHER LANDS.**—The Secretary of the Interior shall at no cost to the recipient convey ownership of—

(1) an estate in fee simple in—

(A) each of Lots 1, 2, 5, 6, and 9 of Tract B of Amended United States Survey 4904 that is the subject of an Aleutian Housing Authority mutual help occupancy agreement, to the Aleutian Housing Authority; and

(B) the remainder of such Lots to the current occupants; and

(2) an estate in fee simple in the Nikolski powerhouse land, to—

(A) the Indian Reorganization Act Tribal Government for the Native Village of Nikolski, upon completion of the environmental restoration described in subsection (f), if after the restoration the powerhouse continues to be located on the Nikolski powerhouse land; or

(B) the surface estate to the Chaluka Corporation and the subsurface estate to the Aleut Corporation, if after the restoration, the Nikolski powerhouse is no longer located on the Nikolski powerhouse land. —

(f) **RESTORATION OF POWERHOUSE LAND.**—The Denali Commission, in consultation with the appropriate agency of the State of Alaska, is authorized to arrange for environmental restoration, in accordance with applicable law, of the areas on, beneath, and adjacent to the Nikolski powerhouse land that are contaminated as a result of powerhouse operations and activities.

(g) **ACCESS.**—As a condition of the conveyance of land under subsection (c), the Chaluka Corporation shall permit the United States Government, and its agents, employees, and contractors, to have unrestricted access to the airfield at Nikolski in perpetuity for site investigation, restoration, remediation, and environmental monitoring of the former Nikolski Radio Relay Site and reasonable access to that airfield, and to other land conveyed under this section, for any activity associated with management of lands owned by the United States and for other governmental purposes without cost to the Government.

(h) **SURVEY REQUIREMENTS.**—

(1) **BLM SURVEYS.**—The Bureau of Land Management is not required to conduct additional on-the-ground surveys as a result of conveyances under this section. The patent to the Chaluka Corporation may be based on protracted section lines and lotting where relinquishment under subsection (b)(2)(C) results in a change to the Chaluka Corporation's final boundaries.

(2) **MONUMENTATION.**—No additional monumentation is required to complete those final boundaries.

(i) **AUTHORIZATION OF APPROPRIATIONS.**—

(1) **FEDERAL AGENCIES.**—There is authorized to be appropriated to the Department of the Interior and other appropriate agencies such sums as are necessary to carry out the provisions of this section.

(2) **POWERHOUSE LAND RESTORATION.**—There is authorized to be appropriated \$1,500,000 to reimburse the appropriate State of Alaska agency for costs required for environmental restoration of the Nikolski powerhouse land, in accordance with applicable law.

(j) **TERMINATION.**—This section shall cease to be effective if either the Chaluka Corporation or the Aleut Corporation affirmatively rejects the offer under subsection (a) or if after 180 days following the date of enactment of this Act either corporation has not taken the actions specified in subsection (b)(2) or (b)(3), respectively.

(k) **DEFINITIONS.**—In this section, the following definitions apply:

(1) The term “Aleut Corporation” means the regional corporation established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) for the region in which the Native Village of Nikolski, Alaska, is located.

(2) The term “Chaluka Corporation” means the village corporation established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) for the Native Village of Nikolski, Alaska.

(3) The term “former Nikolski Radio Relay Site” means the portions of Tracts A, B, and C of Public Land Order 2374 that are surveyed as Tracts 37, 37A, 38, 39, and 39A of Township 83 South, Range 136 West, Seward Meridian, Alaska, and Tract B of United States Survey 4904, Alaska, except—

(A) Lots 1, 2, 5, 6, and 9 of Tract B of Amended United States Survey 4904; and

(B) the Nikolski powerhouse land.

(4) The term “Nikolski powerhouse land” means the parcel of land upon which is located the power generation building for supplying power to the Native Village of Nikolski, the boundaries of which are described generally as follows: Beginning at the point at which the southerly boundary of Tract 39 of Township 83 South, Range 136 West, Seward Meridian, Alaska, intersects the easterly boundary of the road that connects the Native Village of Nikolski and the airfield at Nikolski; then meandering in a northeasterly direction along the easterly boundary of that road until the road intersects the westerly boundary of the road that connects Umnak Lake and the airfield; then meandering in a southerly direction along the western boundary of that Umnak Lake road until that western boundary intersects the southern boundary of such Tract 39; then proceeding eastward along the southern boundary of such Tract 39 to the beginning point.

(5) The term “Phase I lands” means Tract 39 of Township 83 South, Range 136 West, Seward Meridian, excluding the Nikolski powerhouse land.

(6) The term “Phase II lands” means the portion of the former Nikolski Radio Relay Site not conveyed as Phase I lands.

## TITLE II—FAA ORGANIZATION

### Subtitle A—FAA Reform

#### SEC. 201. MANAGEMENT ADVISORY COMMITTEE MEMBERS.

Section 106(p) is amended—

(1) in the subsection heading by inserting “AND AIR TRAFFIC SERVICES BOARD” after “COUNCIL”; and

(2) in paragraph (2)—

(A) by striking “consist of” and all that follows through “members, who” and inserting “consist of 13 members, who”; and

(B) by inserting after “Senate” in subparagraph (C)(i) “, except that initial appointments made after May 1, 2003, shall be made by the Secretary of Transportation”; and

(C) by striking the semicolon at the end of subparagraph (C)(ii) and inserting “; and”; and

(D) by striking “employees, by—” in subparagraph (D) and all that follows through the period at the end of subparagraph (E) and inserting “employees, by the Secretary of Transportation.”.

#### SEC. 202. REORGANIZATION OF THE AIR TRAFFIC SERVICES SUBCOMMITTEE.

Section 106(p) is amended—

(1) by striking paragraph (3) and inserting the following:

“(3) **QUALIFICATIONS.**—No officer or employee of the United States Government may be appointed to the Council under paragraph (2)(C) or to the Air Traffic Services Committee.”.

(2) in paragraph (4)(C) by inserting “or Air Traffic Services Committee” after “Council” each place it appears;

(3) in paragraph (5) by inserting “, the Air Traffic Services Committee,” after “Council”; and

(4) in paragraph (6)(C)—

(A) by striking “SUBCOMMITTEE” in the subparagraph heading and inserting “COMMITTEE”; and

(B) by striking “member” and inserting “members”; and

(C) by striking “under paragraph (2)(E)” the first place it appears and inserting “to the Air Traffic Services Committee”; and

(D) by striking “of the members first” and all that follows through the period at the end and inserting “the first members of the Committee shall be the members of the Air Traffic Services Subcommittee of the Council on the day before the date of enactment of the Vision 100—Century of Aviation Reauthorization Act who shall serve in an advisory capacity until such time as the President appoints the members of the Committee under paragraph (7).”;

(5) in paragraph (6)(D) by striking “under paragraph (2)(E)” and inserting “to the Committee”;

(6) in paragraph (6)(E) by inserting “or Committee” after “Council”;

(7) in paragraph (6)(F) by inserting “of the Council or Committee” after “member”;

(8) in the second sentence of subparagraph (6)(G)—

(A) by striking “Council” and inserting “Committee”; and

(B) by striking “appointed under paragraph (2)(E)”;

(9) in paragraph (6)(H)—

(A) by striking “SUBCOMMITTEE” in the subparagraph heading and inserting “COMMITTEE”;

(B) by striking “under paragraph (2)(E)” in clause (i) and inserting “to the Committee”; and

(C) by striking “Air Traffic Services Subcommittee” and inserting “Committee”;

(10) in paragraph (6)(I)(i)—

(A) by striking “appointed under paragraph (2)(E) is” and inserting “is serving as”; and

(B) by striking “Subcommittee” and inserting “Committee”;

(11) in paragraph (6)(I)(ii)—

(A) by striking “appointed under paragraph (2)(E)” and inserting “who is a member of the Committee”; and

(B) by striking “Subcommittee” and inserting “Committee”;

(12) in paragraph (6)(K) by inserting “or Committee” after “Council”;

(13) in paragraph (6)(L) by inserting “or Committee” after “Council” each place it appears; and

(14) in paragraph (7)—

(A) by striking “SUBCOMMITTEE” in the paragraph heading and inserting “COMMITTEE”;

(B) by striking subparagraph (A) and inserting the following:

“(A) **ESTABLISHMENT.**—The Administrator shall establish a committee that is independent of the Council by converting the Air Traffic Services Subcommittee of the Council, as in effect on the day before the date of enactment of the Vision 100—Century of Aviation Reauthorization Act, into such committee. The committee shall be known as the Air Traffic Services Committee (in this subsection referred to as the ‘Committee’).”;

(C) by redesignating subparagraphs (B) through (F) as subparagraphs (D) through (H), respectively;

(D) by inserting after subparagraph (A) the following:

“(B) **MEMBERSHIP AND QUALIFICATIONS.**—Subject to paragraph (6)(C), the Committee shall consist of 5 members, one of whom shall be the Administrator and shall serve as chairperson. The remaining members shall be appointed by the President with the advice and consent of the Senate and—

“(i) shall have a fiduciary responsibility to represent the public interest;

“(ii) shall be citizens of the United States; and

“(iii) shall be appointed without regard to political affiliation and solely on the basis of their professional experience and expertise in one or more of the following areas and, in the aggregate, should collectively bring to bear expertise in all of the following areas:

“(I) Management of large service organizations.

“(II) Customer service.

“(III) Management of large procurements.

“(IV) Information and communications technology.

“(V) Organizational development.

“(VI) Labor relations.

“(C) PROHIBITIONS ON MEMBERS OF COMMITTEE.—No member of the Committee may—

“(i) have a pecuniary interest in, or own stock in or bonds of, an aviation or aeronautical enterprise, except an interest in a diversified mutual fund or an interest that is exempt from the application of section 208 of title 18;

“(ii) engage in another business related to aviation or aeronautics; or

“(iii) be a member of any organization that engages, as a substantial part of its activities, in activities to influence aviation-related legislation.”;

(E) by striking “Subcommittee” each place it appears in subparagraphs (D) and (E) (as redesignated by subparagraph (C) of this paragraph) and inserting “Committee”;

(F) by striking “approve” in subparagraph (E)(v)(I) (as so redesignated) and inserting “make recommendations on”;

(G) by striking “request” in subparagraph (E)(v)(II) (as so redesignated) and inserting “recommendations”;

(H) by striking “ensure that the budget request supports” in subparagraph (E)(v)(III) (as so redesignated) and inserting “base such budget recommendations on”;

(I) by striking “The Secretary shall submit” in subparagraph (E) (as so redesignated) and all that follows through the period at the end of such subparagraph (E);

(J) by striking subparagraph (F) (as so redesignated) and inserting the following:

“(F) COMMITTEE PERSONNEL MATTERS AND EXPENSES.—

“(i) PERSONNEL MATTERS.—The Committee may appoint and terminate for purposes of employment by the Committee any personnel that may be necessary to enable the Committee to perform its duties, and may procure temporary and intermittent services under section 40122.

“(ii) TRAVEL EXPENSES.—Each member of the Committee shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.”;

(K) in subparagraph (G) (as so redesignated)—

(i) by striking clause (i);

(ii) by redesignating clauses (ii), (iii), and (iv) as clauses (i), (ii), and (iii), respectively; and

(iii) by striking “Subcommittee” each place it appears in clauses (i), (ii), and (iii) (as so redesignated) and inserting “Committee”;

(L) in subparagraph (H) (as so redesignated)—

(i) by striking “Subcommittee” each place it appears and inserting “Committee”;

(ii) by striking “Administrator, the Council” each place it appears in clauses (i) and (ii) and inserting “Secretary”; and

(iii) in clause (ii) by striking “(B)(i)” and inserting “(D)(i)”;

(M) by adding at the end the following:

“(I) AUTHORIZATION.—There are authorized to be appropriated to the Committee such sums as may be necessary for the Committee to carry out its activities.”;

#### SEC. 203. CLARIFICATION OF THE RESPONSIBILITIES OF THE CHIEF OPERATING OFFICER.

Section 106(r) is amended—

(1) in each of paragraphs (1)(A) and (2)(A) by striking “Air Traffic Services Subcommittee of the Aviation Management Advisory Council” and inserting “Air Traffic Services Committee”;

(2) in paragraph (2)(B) by inserting “in” before “paragraph (3).”;

(3) in paragraph (3) by striking “Air Traffic Control Subcommittee of the Aviation Management Advisory Committee” and inserting “Air Traffic Services Committee”;

(4) in paragraph (4) by striking “Transportation and Congress” and inserting “Transportation, the Committee on Transportation and

Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate”;

(5) in paragraph (5)(A)—

(A) by striking “develop a” and inserting “implement the”; and

(B) by striking “, including the establishment of” and inserting “in order to further”;

(6) in paragraph (5)(B)—

(A) by striking “review” and all that follows through “Administration,” and inserting “oversee the day-to-day operational functions of the Administration for air traffic control.”;

(B) by striking “and” at the end of clause (ii);

(C) by striking the period at the end of clause (iii) and inserting “; and”;

(D) by adding at the end the following:

“(iv) the management of cost-reimbursable contracts.”;

(7) in paragraph (5)(C)(i) by striking “prepared by the Administrator”;

(8) in paragraph (5)(C)(ii) by striking “and the Secretary of Transportation” and inserting “and the Committee”; and

(9) in paragraph (5)(C)(iii)—

(A) by inserting “agency’s” before “annual”; and

(B) by striking “developed under subparagraph (A) of this subsection.” and inserting “for air traffic control services.”.

#### SEC. 204. DEPUTY ADMINISTRATOR.

Section 106(d) is amended—

(1) by redesignating paragraphs (2) and (3) as (3) and (4), respectively; and

(2) by inserting after paragraph (1) the following:

“(2) The annual rate of basic pay of the Deputy Administrator shall be set by the Secretary but shall not exceed the annual rate of basic pay payable to the Administrator of the Federal Aviation Administration.”.

#### Subtitle B—Miscellaneous

#### SEC. 221. CONTROLLER STAFFING.

(a) ANNUAL REPORT.—Beginning with the submission of the Budget of the United States to the Congress for fiscal year 2005, the Administrator of the Federal Aviation Administration shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure that describes the overall air traffic controller staffing plan, including strategies to address anticipated retirement and replacement of air traffic controllers.

(b) HUMAN CAPITAL WORKFORCE STRATEGY.—

(1) DEVELOPMENT.—The Administrator shall develop a comprehensive human capital workforce strategy to determine the most effective method for addressing the need for more air traffic controllers that is identified in the June 2002 report of the General Accounting Office.

(2) COMPLETION DATE.—Not later than 1 year after the date of enactment of this Act, the Administrator shall complete development of the strategy.

(3) REPORT.—Not later than 30 days after the date on which the strategy is completed, the Administrator shall transmit to Congress a report describing the strategy.

#### SEC. 222. WHISTLEBLOWER PROTECTION UNDER ACQUISITION MANAGEMENT SYSTEM.

Section 40110(d)(2)(C) is amended by striking “355.” and inserting “355), except for section 315 (41 U.S.C. 265). For the purpose of applying section 315 of that Act to the system, the term ‘executive agency’ is deemed to refer to the Federal Aviation Administration.”.

#### SEC. 223. FAA PURCHASE CARDS.

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall take appropriate actions to implement the recommendations contained in the report of the General Accounting Office entitled “FAA Purchase Cards: Weak Controls Resulted in Instances of Improper and Wasteful Purchases and Missing As-

sets”, numbered GAO-03-405 and dated March 21, 2003.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Administrator shall transmit to Congress a report containing a description of the actions taken by the Administrator under this section.

#### SEC. 224. PROCUREMENT.

(a) ACQUISITION MANAGEMENT SYSTEM.—Section 40110(d) is amended—

(1) in paragraph (1)—

(A) by striking “, not later than January 1, 1996,”; and

(B) by striking “provides for more timely and cost-effective acquisitions of equipment and materials.” and inserting the following:

“provides for—

“(A) more timely and cost-effective acquisitions of equipment, services, property, and materials; and

“(B) the resolution of bid protests and contract disputes related thereto, using consensual alternative dispute resolution techniques to the maximum extent practicable.”; and

(2) by striking paragraph (4), relating to the effective date, and inserting the following:

“(4) ADJUDICATION OF CERTAIN BID PROTESTS AND CONTRACT DISPUTES.—A bid protest or contract dispute that is not addressed or resolved through alternative dispute resolution shall be adjudicated by the Administrator through Dispute Resolution Officers or Special Masters of the Federal Aviation Administration Office of Dispute Resolution for Acquisition, acting pursuant to sections 46102, 46104, 46105, 46106 and 46107 and shall be subject to judicial review under section 46110 and to section 504 of title 5.”.

(b) AUTHORITY OF ADMINISTRATOR TO ACQUIRE SERVICES.—Section 106(f)(2)(A)(ii) is amended by inserting “, services,” after “property”.

#### SEC. 225. DEFINITIONS.

(a) IN GENERAL.—Section 40102(a) is amended—

(1) by redesignating paragraphs (38) through (42) as paragraphs (43) through (47), respectively;

(2) by inserting after paragraph (37) the following:

“(42) ‘small hub airport’ means a commercial service airport (as defined in section 47102) that has at least 0.05 percent but less than 0.25 percent of the passenger boardings.”;

(3) by redesignating paragraphs (33) through (37) as paragraphs (37) through (41) respectively;

(4) by inserting after paragraph (32) the following:

“(36) ‘passenger boardings’—

“(A) means, unless the context indicates otherwise, revenue passenger boardings in the United States in the prior calendar year on an aircraft in service in air commerce, as the Secretary determines under regulations the Secretary prescribes; and

“(B) includes passengers who continue on an aircraft in international flight that stops at an airport in the 48 contiguous States, Alaska, or Hawaii for a nontraffic purpose.”;

(5) by redesignating paragraph (32) as paragraph (35);

(6) by inserting after paragraph (31) the following:

“(34) ‘nonhub airport’ means a commercial service airport (as defined in section 47102) that has less than 0.05 percent of the passenger boardings.”;

(7) by redesignating paragraphs (30) and (31) as paragraphs (32) and (33), respectively;

(8) by inserting after paragraph (29) the following:

“(31) ‘medium hub airport’ means a commercial service airport (as defined in section 47102) that has at least 0.25 percent but less than 1.0 percent of the passenger boardings.”;

(9) by redesignating paragraph (29) as paragraph (30); and

(10) by inserting after paragraph (28) the following:

“(29) ‘large hub airport’ means a commercial service airport (as defined in section 47102) that has at least 1.0 percent of the passenger boardings.”

(b) CONFORMING AMENDMENTS.—

(1) AIR SERVICE TERMINATION NOTICE.—Section 41719(d) is amended—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively.

(2) SMALL COMMUNITY AIR SERVICE.—Section 41731(a) is amended by striking paragraphs (3) through (5).

(3) AIRPORTS NOT RECEIVING SUFFICIENT SERVICE.—Section 41743 is amended—

(A) in subsection (c)(1) by striking “(as that term is defined in section 41731(a)(5))”; and

(B) in subsection (f) by striking “(as defined in section 41731(a)(3))”.

(4) PRESERVATION OF BASIC ESSENTIAL AIR SERVICE AT SINGLE CARRIER DOMINATED HUB AIRPORTS.—Section 41744(b) is amended by striking “(as defined in section 41731)”.

(5) REGIONAL AIR SERVICE INCENTIVE PROGRAM.—Section 41762 is amended—

(A) by striking paragraphs (11) and (15); and

(B) by redesignating paragraphs (12), (13), (14), and (16) as paragraphs (11), (12), (13), and (14), respectively.

#### SEC. 226. AIR TRAFFIC CONTROLLER RETIREMENT.

(a) AIR TRAFFIC CONTROLLER DEFINED.—

(1) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8331 of title 5, United States Code, is amended—

(A) by striking “and” at the end of paragraph (27);

(B) by striking the period at the end of paragraph (28) and inserting “; and”; and

(C) by adding at the end the following:

“(29) ‘air traffic controller’ or ‘controller’ means—

“(A) a controller within the meaning of section 2109(1); and

“(B) a civilian employee of the Department of Transportation or the Department of Defense who is the immediate supervisor of a person described in section 2109(1)(B).”.

(2) FEDERAL EMPLOYEES’ RETIREMENT SYSTEM.—Section 8401 of title 5, United States Code, is amended—

(A) by striking “and” at the end of paragraph (33);

(B) by striking the period at the end of paragraph (34) and inserting “; and”; and

(C) by adding at the end the following:

“(35) ‘air traffic controller’ or ‘controller’ means—

“(A) a controller within the meaning of section 2109(1); and

“(B) a civilian employee of the Department of Transportation or the Department of Defense who is the immediate supervisor of a person described in section 2109(1)(B).”.

(3) MANDATORY SEPARATION TREATMENT NOT AFFECTED.—

(A) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8335(a) of title 5, United States Code, is amended by adding at the end the following: “For purposes of this subsection, the term ‘air traffic controller’ or ‘controller’ has the meaning given to it under section 8331(29)(A).”.

(B) FEDERAL EMPLOYEES’ RETIREMENT SYSTEM.—Section 8425(a) of title 5, United States Code, is amended by adding at the end the following: “For purposes of this subsection, the term ‘air traffic controller’ or ‘controller’ has the meaning given to it under section 8401(35)(A).”.

(b) MODIFIED ANNUITY COMPUTATION RULE FOR CERTAIN AIR TRAFFIC CONTROLLERS UNDER FERS.—

(1) IN GENERAL.—Section 8415 of title 5, United States Code, is amended—

(A) by redesignating subsections (e) through (j) as subsections (f) through (k), respectively,

and by redesignating the second subsection (i) as subsection (l); and

(B) by inserting after subsection (d) the following:

“(e) The annuity of an air traffic controller or former air traffic controller retiring under section 8412(a) is computed under subsection (a), except that if the individual has had at least 5 years of service as an air traffic controller as defined by section 2109(1)(A)(i), so much of the annuity as is computed with respect to such type of service shall be computed by multiplying 1 $\frac{1}{10}$  percent of the individual’s average pay by the years of such service.”.

(2) CONFORMING AMENDMENTS.—(A) Section 8422(d)(2) of title 5, United States Code, is amended by striking “8415(i)” and inserting “8415(j)”.

(B) Section 8452(d)(1) of such title is amended by striking “subsection (f)” and inserting “subsection (g)”.

(C) Section 8468(b)(1)(A) of such title is amended by striking “through (g)” and inserting “through (h)”.

(D) Section 302(a) of the Federal Employees’ Retirement System Act of 1986 (5 U.S.C. 8331 note) is amended—

(i) in paragraph (1)(D)(iii)(VI), by striking “subsection (g)” and inserting “subsection (h)”;

(ii) in paragraph (9), by striking “8415(f)” and inserting “8415(g)”;

(iii) in paragraph (12)(B)(ii), by striking “through (f)” and inserting “through (g)”.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—This section and the amendments made by this section—

(A) shall take effect on the 60th day after the date of enactment of this Act; and

(B) shall apply with respect to—

(i) any annuity entitlement to which is based on an individual’s separation from service occurring on or after the effective date of this section; and

(ii) any service performed by any such individual before, on, or after the effective date of this section, subject to paragraph (2).

(2) SPECIAL RULE.—

(A) DEPOSIT REQUIREMENT.—For purposes of determining eligibility for immediate retirement under section 8412(e) of title 5, United States Code, the amendment made by subsection (a)(2) shall, with respect to any service described in subparagraph (B), be disregarded unless there is deposited into the Civil Service Retirement and Disability Fund, with respect to such service, in such time, form, and manner as the Office of Personnel Management by regulation requires, an amount equal to the amount by which—

(i) the deductions from pay which would have been required for such service if the amendments made by subsection (a)(2) had been in effect when such service was performed, exceeds

(ii) the unrefunded deductions or deposits actually made under subchapter II of chapter 84 of such title with respect to such service.

An amount under this subparagraph shall include interest, computed under paragraphs (2) and (3) of section 8334(e) of such title 5.

(B) PRIOR SERVICE DESCRIBED.—This paragraph applies with respect to any service performed by an individual before the effective date of this section as an employee described in section 8401(35)(B) of title 5, United States Code (as amended by subsection (a)(2)).

#### SEC. 227. DESIGN ORGANIZATION CERTIFICATES.

(a) GENERAL AUTHORITY TO ISSUE CERTIFICATES.—Effective on the last day of the 7-year period beginning on the date of enactment of this Act, section 44702(a) is amended by inserting “design organization certificates,” after “airman certificates.”.

(b) DESIGN ORGANIZATION CERTIFICATES.—

(1) PLAN.—Not later than 4 years after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall transmit to the Committee on Transportation and Infrastructure of the House of Representa-

tives and the Committee on Commerce, Science, and Transportation of the Senate a plan for the development and oversight of a system for certification of design organizations to certify compliance with the requirements and minimum standards prescribed under section 44701(a) of title 49, United States Code, for the type certification of aircraft, aircraft engines, propellers, or appliances.

(2) ISSUANCE OF CERTIFICATES.—Section 44704 is amended by adding at the end the following:

“(e) DESIGN ORGANIZATION CERTIFICATES.—

“(1) ISSUANCE.—Beginning 7 years after the date of enactment of this subsection, the Administrator may issue a design organization certificate to a design organization to authorize the organization to certify compliance with the requirements and minimum standards prescribed under section 44701(a) for the type certification of aircraft, aircraft engines, propellers, or appliances.

“(2) APPLICATIONS.—On receiving an application for a design organization certificate, the Administrator shall examine and rate the design organization submitting the application, in accordance with regulations to be prescribed by the Administrator, to determine whether the design organization has adequate engineering, design, and testing capabilities, standards, and safeguards to ensure that the product being certificated is properly designed and manufactured, performs properly, and meets the regulations and minimum standards prescribed under section 44701(a).

“(3) ISSUANCE OF TYPE CERTIFICATES BASED ON DESIGN ORGANIZATION CERTIFICATION.—The Administrator may rely on certifications of compliance by a design organization when making a finding under subsection (a).

“(4) PUBLIC SAFETY.—The Administrator shall include in a design organization certificate issued under this subsection terms required in the interest of safety.

“(5) NO EFFECT ON POWER OF REVOCATION.—Nothing in this subsection affects the authority of the Secretary of Transportation to revoke a certificate.”.

(c) REINSPECTION AND REEXAMINATION.—Section 44709(a) is amended by inserting “design organization, production certificate holder,” after “appliance.”.

(d) PROHIBITIONS.—Section 44711(a)(7) is amended by striking “agency” and inserting “agency, design organization certificate.”.

(e) CONFORMING AMENDMENTS.—

(1) SECTION HEADING.—Section 44704 is amended by striking the section designation and heading and inserting the following:

“§44704. Type certificates, production certificates, airworthiness certificates, and design organization certificates”

(2) CHAPTER ANALYSIS.—The analysis for chapter 447 is amended by striking the item relating to section 44704 and inserting the following:

“44704. Type certificates, production certificates, airworthiness certificates, and design organization certificates.”.

#### SEC. 228. JUDICIAL REVIEW.

The first sentence of section 46110(a) is amended—

(1) by striking “safety”; and

(2) by striking under this part and inserting “in whole or in part under this part, part B, or subsection (l) or (s) of section 114”.

#### SEC. 229. OVERFLIGHT FEES.

(a) ADOPTION AND LEGALIZATION OF CERTAIN RULES.—

(1) APPLICABILITY AND EFFECT OF CERTAIN LAW.—Notwithstanding section 141(d)(1) of the Aviation and Transportation Security Act (49 U.S.C. 44901 note), section 45301(b)(1)(B) of title 49, United States Code, is deemed to apply to and to have effect with respect to the authority of the Administrator of the Federal Aviation Administration with respect to the interim final

rule and final rule, relating to overflight fees, issued by the Administrator on May 30, 2000, and August 13, 2001, respectively.

(2) **ADOPTION AND LEGALIZATION.**—The interim final rule and final rule referred to in subsection (a), including the fees issued pursuant to those rules, are adopted, legalized, and confirmed as fully to all intents and purposes as if the same had, by prior Act of Congress, been specifically adopted, authorized, and directed as of the date those rules were originally issued.

(3) **FEES TO WHICH APPLICABLE.**—This subsection applies to fees assessed after November 19, 2001, and before April 8, 2003, and fees collected after the requirements of subsection (b) have been met.

(b) **DEFERRED COLLECTION OF FEES.**—The Administrator shall defer collecting fees under section 45301(a)(1) of title 49, United States Code, until the Administrator (1) reports to Congress respond to the issues raised by the court in *Air Transport Association of Canada v. Federal Aviation Administration and Administrator*, FAA, decided on April 8, 2003, and (2) consults with users and other interested parties regarding the consistency of the fees established under such section with the international obligations of the United States.

(c) **ENFORCEMENT.**—The Administrator shall take an appropriate enforcement action under subtitle VII of title 49, United States Code, against any user that does not pay a fee under section 45301(a)(1) of such title.

#### **SEC. 230. PROHIBITION ON AIR TRAFFIC CONTROL PRIVATIZATION.**

(a) **IN GENERAL.**—Until October 1, 2007, the Secretary of Transportation may not authorize the transfer of the air traffic separation and control functions operated by the Federal Aviation Administration on the date of enactment of this Act to a private entity or to a public entity other than the United States Government.

(b) **LIMITATION.**—Subsection (a) shall not apply—

(1) to a Federal Aviation Administration air traffic control tower operated under the contract tower program on the date of enactment of this Act;

(2) to any expansion of that program through new construction under subtitle VII of title 49, United States Code; or

(3) to a Federal Aviation Administration air traffic control tower (other than towers in Alaska) identified in the Report of the Department of Transportation Inspector General dated April 12, 2000, and designated "Contract Towers: Observations on the Federal Aviation Administration's Study of Expanding the Program".

#### **TITLE III—ENVIRONMENTAL PROCESS**

##### **Subtitle A—Aviation Development Streamlining**

#### **SEC. 301. SHORT TITLE.**

This title may be cited as "Aviation Streamlining Approval Process Act of 2003".

#### **SEC. 302. FINDINGS.**

Congress finds that—

(1) airports play a major role in interstate and foreign commerce;

(2) congestion and delays at our Nation's major airports have a significant negative impact on our Nation's economy;

(3) airport capacity enhancement projects at congested airports are a national priority and should be constructed on an expedited basis;

(4) airport capacity enhancement projects must include an environmental review process that provides local citizenry an opportunity for consideration of and appropriate action to address environmental concerns; and

(5) the Federal Aviation Administration, airport authorities, communities, and other Federal, State, and local government agencies must work together to develop a plan, set and honor milestones and deadlines, and work to protect the environment while sustaining the economic vitality that will result from the continued growth of aviation.

#### **SEC. 303. AIRPORT CAPACITY ENHANCEMENT.**

Section 40104 is amended by adding at the end the following:

"(c) **AIRPORT CAPACITY ENHANCEMENT PROJECTS AT CONGESTED AIRPORTS.**—In carrying out subsection (a), the Administrator shall take action to encourage the construction of airport capacity enhancement projects at congested airports as those terms are defined in section 47176."

#### **SEC. 304. AVIATION PROJECT STREAMLINING.**

(a) **IN GENERAL.**—Chapter 471 is amended by inserting after subchapter II the following:

##### **"SUBCHAPTER III—AVIATION DEVELOPMENT STREAMLINING**

##### **"§47171. Expedited, coordinated environmental review process**

"(a) **AVIATION PROJECT REVIEW PROCESS.**—The Secretary of Transportation shall develop and implement an expedited and coordinated environmental review process for airport capacity enhancement projects at congested airports, aviation safety projects, and aviation security projects that—

"(1) provides for better coordination among the Federal, regional, State, and local agencies concerned with the preparation of environmental impact statements or environmental assessments under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

"(2) provides that all environmental reviews, analyses, opinions, permits, licenses, and approvals that must be issued or made by a Federal agency or airport sponsor for such a project will be conducted concurrently, to the maximum extent practicable; and

"(3) provides that any environmental review, analysis, opinion, permit, license, or approval that must be issued or made by a Federal agency or airport sponsor for such a project will be completed within a time period established by the Secretary, in cooperation with the agencies identified under subsection (d) with respect to the project.

"(b) **AVIATION PROJECTS SUBJECT TO A STREAMLINED ENVIRONMENTAL REVIEW PROCESS.**—

"(1) **AIRPORT CAPACITY ENHANCEMENT PROJECTS AT CONGESTED AIRPORTS.**—An airport capacity enhancement project at a congested airport shall be subject to the coordinated and expedited environmental review process requirements set forth in this section.

"(2) **AVIATION SAFETY AND AVIATION SECURITY PROJECTS.**—

"(A) **IN GENERAL.**—The Administrator of the Federal Aviation Administration may designate an aviation safety project or aviation security project for priority environmental review. The Administrator may not delegate this designation authority. A designated project shall be subject to the coordinated and expedited environmental review process requirements set forth in this section.

"(B) **PROJECT DESIGNATION CRITERIA.**—The Administrator shall establish guidelines for the designation of an aviation safety project or aviation security project for priority environmental review. Such guidelines shall provide for consideration of—

"(i) the importance or urgency of the project;

"(ii) the potential for undertaking the environmental review under existing emergency procedures under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

"(iii) the need for cooperation and concurrent reviews by other Federal or State agencies;

"(iv) the prospect for undue delay if the project is not designated for priority review; and

"(v) for aviation security projects, the views of the Department of Homeland Security.

"(c) **HIGH PRIORITY OF AND AGENCY PARTICIPATION IN COORDINATED REVIEWS.**—

"(1) **HIGH PRIORITY FOR ENVIRONMENTAL REVIEWS.**—Each Federal agency with jurisdiction over an environmental review, analysis, opinion, permit, license, or approval shall accord

any such review, analysis, opinion, permit, license, or approval involving an airport capacity enhancement project at a congested airport or a project designated under subsection (b)(2) the highest possible priority and conduct the review, analysis, opinion, permit, license, or approval expeditiously.

"(2) **AGENCY PARTICIPATION.**—Each Federal agency described in subsection (d) shall formulate and implement administrative, policy, and procedural mechanisms to enable the agency to participate in the coordinated environmental review process under this section and to ensure completion of environmental reviews, analyses, opinions, permits, licenses, and approvals described in subsection (a) in a timely and environmentally responsible manner.

"(d) **IDENTIFICATION OF JURISDICTIONAL AGENCIES.**—With respect to each airport capacity enhancement project at a congested airport or a project designated under subsection (b)(2), the Secretary shall identify, as soon as practicable, all Federal and State agencies that may have jurisdiction over environmental-related matters that may be affected by the project or may be required by law to conduct an environmental-related review or analysis of the project or determine whether to issue an environmental-related permit, license, or approval for the project.

"(e) **STATE AUTHORITY.**—Under a coordinated review process being implemented under this section by the Secretary with respect to a project at an airport within the boundaries of a State, the Governor of the State, consistent with State law, may choose to participate in such process and provide that all State agencies that have jurisdiction over environmental-related matters that may be affected by the project or may be required by law to conduct an environmental-related review or analysis of the project or determine whether to issue an environmental-related permit, license, or approval for the project, be subject to the process.

"(f) **MEMORANDUM OF UNDERSTANDING.**—The coordinated review process developed under this section may be incorporated into a memorandum of understanding for a project between the Secretary and the heads of other Federal and State agencies identified under subsection (d) with respect to the project and, if applicable, the airport sponsor.

"(g) **USE OF INTERAGENCY ENVIRONMENTAL IMPACT STATEMENT TEAMS.**—

"(1) **IN GENERAL.**—The Secretary may utilize an interagency environmental impact statement team to expedite and coordinate the coordinated environmental review process for a project under this section. When utilizing an interagency environmental impact statement team, the Secretary shall invite Federal, State and Tribal agencies with jurisdiction by law, and may invite such agencies with special expertise, to participate on an interagency environmental impact statement team.

"(2) **RESPONSIBILITY OF INTERAGENCY ENVIRONMENTAL IMPACT STATEMENT TEAM.**—Under a coordinated environmental review process being implemented under this section, the interagency environmental impact statement team shall assist the Federal Aviation Administration in the preparation of the environmental impact statement. To facilitate timely and efficient environmental review, the team shall agree on agency or Tribal points of contact, protocols for communication among agencies, and deadlines for necessary actions by each individual agency (including the review of environmental analyses, the conduct of required consultation and coordination, and the issuance of environmental opinions, licenses, permits, and approvals). The members of the team may formalize their agreement in a written memorandum.

"(h) **LEAD AGENCY RESPONSIBILITY.**—The Federal Aviation Administration shall be the lead agency for projects designated under subsection (b)(2) and airport capacity enhancement projects at congested airports and shall be responsible for defining the scope and content of

the environmental impact statement, consistent with regulations issued by the Council on Environmental Quality. Any other Federal agency or State agency that is participating in a coordinated environmental review process under this section shall give substantial deference, to the extent consistent with applicable law and policy, to the aviation expertise of the Federal Aviation Administration.

“(i) EFFECT OF FAILURE TO MEET DEADLINE.—

“(1) NOTIFICATION OF CONGRESS AND CEQ.—If the Secretary determines that a Federal agency, State agency, or airport sponsor that is participating in a coordinated review process under this section with respect to a project has not met a deadline established under subsection (a)(3) for the project, the Secretary shall notify, within 30 days of the date of such determination, the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, the Council on Environmental Quality, and the agency or sponsor involved about the failure to meet the deadline.

“(2) AGENCY REPORT.—Not later than 30 days after date of receipt of a notice under paragraph (1), the agency or sponsor involved shall submit a report to the Secretary, the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Council on Environmental Quality explaining why the agency or sponsor did not meet the deadline and what actions it intends to take to complete or issue the required review, analysis, opinion, permit, license, or approval.

“(j) PURPOSE AND NEED.—For any environmental review, analysis, opinion, permit, license, or approval that must be issued or made by a Federal or State agency that is participating in a coordinated review process under this section and that requires an analysis of purpose and need for the project, the agency, notwithstanding any other provision of law, shall be bound by the project purpose and need as defined by the Secretary.

“(k) ALTERNATIVES ANALYSIS.—The Secretary shall determine the reasonable alternatives to an airport capacity enhancement project at a congested airport or a project designated under subsection (b)(2). Any other Federal agency, or State agency that is participating in a coordinated review process under this section with respect to the project shall consider only those alternatives to the project that the Secretary has determined are reasonable.

“(l) SOLICITATION AND CONSIDERATION OF COMMENTS.—In applying subsections (j) and (k), the Secretary shall solicit and consider comments from interested persons and governmental entities in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4371 et seq.).

“(m) MONITORING BY TASK FORCE.—The Transportation Infrastructure Streamlining Task Force, established by Executive Order 13274 (67 Fed. Reg. 59449; relating to environmental stewardship and transportation infrastructure project reviews), may monitor airport projects that are subject to the coordinated review process under this section.

#### “§ 47172. Air traffic procedures for airport capacity enhancement projects at congested airports

“(a) IN GENERAL.—The Administrator of the Federal Aviation Administration may consider prescribing flight procedures to avoid or minimize potentially significant adverse noise impacts of an airport capacity enhancement project at a congested airport that involves the construction of new runways or the reconfiguration of existing runways during the environmental planning process for the project. If the Administrator determines that noise mitigation flight procedures are consistent with safe and efficient use of the navigable airspace, the Ad-

ministrator may commit, at the request of the airport sponsor and in a manner consistent with applicable Federal law, to prescribing such procedures in any record of decision approving the project.

“(b) MODIFICATION.—Notwithstanding any commitment by the Administrator under subsection (a), the Administrator may initiate changes to such procedures if necessary to maintain safety and efficiency in light of new information or changed circumstances.

#### “§ 47173. Airport funding of FAA staff

“(a) ACCEPTANCE OF SPONSOR-PROVIDED FUNDS.—Notwithstanding any other provision of law, the Administrator of the Federal Aviation Administration may accept funds from an airport sponsor, including funds provided to the sponsor under section 47114(c), to hire additional staff or obtain the services of consultants in order to facilitate the timely processing, review, and completion of environmental activities associated with an airport development project.

“(b) ADMINISTRATIVE PROVISION.—Instead of payment from an airport sponsor from funds apportioned to the sponsor under section 47114, the Administrator, with agreement of the sponsor, may transfer funds that would otherwise be apportioned to the sponsor under section 47114 to the account used by the Administrator for activities described in subsection (a).

“(c) RECEIPTS CREDITED AS OFFSETTING COLLECTIONS.—Notwithstanding section 3302 of title 31, any funds accepted under this section, except funds transferred pursuant to subsection (b)—

“(1) shall be credited as offsetting collections to the account that finances the activities and services for which the funds are accepted;

“(2) shall be available for expenditure only to pay the costs of activities and services for which the funds are accepted; and

“(3) shall remain available until expended.

“(d) MAINTENANCE OF EFFORT.—No funds may be accepted pursuant to subsection (a), or transferred pursuant to subsection (b), in any fiscal year in which the Federal Aviation Administration does not allocate at least the amount it expended in fiscal year 2002 (excluding amounts accepted pursuant to section 337 of the Department of Transportation and Related Agencies Appropriations Act, 2002 (115 Stat. 862)) for the activities described in subsection (a).

#### “§ 47174. Authorization of appropriations

“In addition to the amounts authorized to be appropriated under section 106(k), there is authorized to be appropriated to the Secretary of Transportation, out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502), \$4,200,000 for fiscal year 2004 and for each fiscal year thereafter to facilitate the timely processing, review, and completion of environmental activities associated with airport capacity enhancement projects at congested airports.

#### “§ 47175. Definitions

“In this subchapter, the following definitions apply:

“(1) AIRPORT SPONSOR.—The term ‘airport sponsor’ has the meaning given the term ‘sponsor’ under section 47102.

“(2) CONGESTED AIRPORT.—The term ‘congested airport’ means an airport that accounted for at least 1 percent of all delayed aircraft operations in the United States in the most recent year for which such data is available and an airport listed in table 1 of the Federal Aviation Administration’s Airport Capacity Benchmark Report 2001.

“(3) AIRPORT CAPACITY ENHANCEMENT PROJECT.—The term ‘airport capacity enhancement project’ means—

“(A) a project for construction or extension of a runway, including any land acquisition, taxiway, or safety area associated with the runway or runway extension; and

“(B) such other airport development projects as the Secretary may designate as facilitating a reduction in air traffic congestion and delays.

“(4) AVIATION SAFETY PROJECT.—The term ‘aviation safety project’ means an aviation project that—

“(A) has as its primary purpose reducing the risk of injury to persons or damage to aircraft and property, as determined by the Administrator; and

“(B)(i) is needed to respond to a recommendation from the National Transportation Safety Board, as determined by the Administrator; or

“(ii) is necessary for an airport to comply with part 139 of title 14, Code of Federal Regulations (relating to airport certification).

“(5) AVIATION SECURITY PROJECT.—The term ‘aviation security project’ means a security project at an airport required by the Department of Homeland Security.

“(6) FEDERAL AGENCY.—The term ‘Federal agency’ means a department or agency of the United States Government.”

(b) CONFORMING AMENDMENT.—The analysis for such chapter is amended by adding at the end the following:

#### “SUBCHAPTER III—AVIATION DEVELOPMENT STREAMLINING

“47171. Expedited, coordinated environmental review process.

“47172. Air traffic procedures for airport capacity enhancement projects at congested airports.

“47173. Airport funding of FAA staff.

“47174. Authorization of appropriations.

“47175. Definitions.”

#### SEC. 305. ELIMINATION OF DUPLICATIVE REQUIREMENTS.

Section 47106(c) is amended—

(1) by inserting “and” after the semicolon at the end of paragraph (1)(A)(iii) (as added by this Act);

(2) by striking subparagraph (B) of paragraph (1);

(3) by redesignating subparagraph (C) of paragraph (1) as subparagraph (B);

(4) in paragraph (2)(A) by striking “stage 2” and inserting “stage 3”;

(5) by striking paragraph (4);

(6) by redesignating paragraph (5) as paragraph (4); and

(7) in paragraph (4) (as so redesignated) by striking “(1)(C)” and inserting “(1)(B)”.

#### SEC. 306. CONSTRUCTION OF CERTAIN AIRPORT CAPACITY PROJECTS.

Section 47504(c)(2) is amended—

(1) by moving subparagraphs (C) and (D) 2 ems to the right;

(2) by striking “and” at the end of subparagraph (C);

(3) by striking the period at the end of subparagraph (D) and inserting “; and”; and

(4) by adding at the end the following:

“(E) to an airport operator of a congested airport (as defined in section 47175) and a unit of local government referred to in paragraph (1)(B) of this subsection to carry out a project to mitigate noise in the area surrounding the airport if the project is included as a commitment in a record of decision of the Federal Aviation Administration for an airport capacity enhancement project (as defined in section 47175) even if that airport has not met the requirements of part 150 of title 14, Code of Federal Regulations.”

#### SEC. 307. ISSUANCE OF ORDERS.

Not later than 180 days after the date of enactment of this Act, the Secretary of Transportation shall publish the final Federal Aviation Administration Order 1050.1E, Environmental Impacts: Policies and Procedures. Not later than 180 days after the date of publication of such final order, the Secretary shall publish for public comment the revised Federal Aviation Administration Order 5050.4B, Airport Environmental Handbook.



**SEC. 308. LIMITATIONS.**

Nothing in this subtitle, including any amendment made by this title, shall preempt or interfere with—

- (1) any practice of seeking public comment;
- (2) any power, jurisdiction, or authority that a State agency or an airport sponsor has with respect to carrying out an airport capacity enhancement project; and
- (3) any obligation to comply with the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4371 et seq.) and the regulations issued by the Council on Environmental Quality to carry out such Act.

**SEC. 309. RELATIONSHIP TO OTHER REQUIREMENTS.**

The coordinated review process required under the amendments made by this subtitle shall apply to an airport capacity enhancement project at a congested airport whether or not the project is designated by the Secretary of Transportation as a high-priority transportation infrastructure project under Executive Order 13274 (67 Fed. Reg. 59449; relating to environmental stewardship and transportation infrastructure project reviews).

**Subtitle B—Miscellaneous****SEC. 321. REPORT ON LONG TERM ENVIRONMENTAL IMPROVEMENTS.**

(a) **IN GENERAL.**—The Secretary of Transportation, in consultation with the Administrator of the National Aeronautics and Space Administration, shall conduct a study of ways to reduce aircraft noise and emissions and to increase aircraft fuel efficiency. The study shall—

- (1) explore new operational procedures for aircraft to achieve those goals;
- (2) identify both near term and long term options to achieve those goals;
- (3) identify infrastructure changes that would contribute to attainment of those goals;
- (4) identify emerging technologies that might contribute to attainment of those goals;
- (5) develop a research plan for application of such emerging technologies, including new combustor and engine design concepts and methodologies for designing high bypass ratio turbofan engines so as to minimize the effects on climate change per unit of production of thrust and flight speed; and
- (6) develop an implementation plan for exploiting such emerging technologies to attain those goals.

(b) **REPORT.**—The Secretary shall transmit a report on the study to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 1 year after the date of enactment of this Act.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to the Secretary \$500,000 for fiscal year 2004 to carry out this section.

**SEC. 322. NOISE DISCLOSURE.**

(a) **NOISE DISCLOSURE SYSTEM IMPLEMENTATION STUDY.**—The Administrator of the Federal Aviation Administration shall conduct a study to determine the feasibility of developing a program under which prospective home buyers of property located in the vicinity of an airport could be notified of information derived from noise exposure maps that may affect the use and enjoyment of the property. The study shall assess the scope, administration, usefulness, and burdensomeness of any such program, the costs and benefits of such a program, and whether participation in such a program should be voluntary or mandatory.

(b) **PUBLIC AVAILABILITY OF NOISE EXPOSURE MAPS.**—The Administrator shall make noise exposure and land use information from noise exposure maps available to the public via the Internet on its website in an appropriate format.

(c) **NOISE EXPOSURE MAP.**—In this section, the term “noise exposure map” means a noise exposure map prepared under section 47503 of title 49, United States Code.

**SEC. 323. OVERFLIGHTS OF NATIONAL PARKS.**

(a) **IN GENERAL.**—Section 40128 is amended—

- (1) in subsection (a)(1) by inserting “, as defined by this section,” after “lands” the first place it appears;
- (2) in subsections (b)(3)(A) and (b)(3)(B) by inserting “over a national park” after “operations”;
- (3) in subsection (b)(3)(C) by inserting “over a national park that are also” after “operations”;
- (4) in subsection (b)(3)(D) by striking “at the park” and inserting “over a national park”;
- (5) in subsection (b)(3)(E) by inserting “over a national park” after “operations” the first place it appears;
- (6) in subsections (c)(2)(A)(i) and (c)(2)(B) by inserting “over a national park” after “operations”;
- (7) in subsection (f)(1) by inserting “over a national park” after “operation”;
- (8) in subsection (f)(4)(A)—
- (A) by striking “commercial air tour operation” and inserting “commercial air tour operation over a national park”; and
- (B) by striking “park, or over tribal lands,” and inserting “park (except the Grand Canyon National Park), or over tribal lands (except those within or abutting the Grand Canyon National Park).”;
- (9) in subsection (f)(4)(B) by inserting “over a national park” after “operation”; and
- (10) in the heading for paragraph (4) of subsection (f) by inserting “OVER A NATIONAL PARK” after “OPERATION”.

(b) **QUIET TECHNOLOGY RULEMAKING FOR AIR TOURS OVER GRAND CANYON NATIONAL PARK.**—

(1) **DEADLINE FOR RULE.**—No later than January 2005, the Secretary of Transportation shall issue a final rule to establish standards for quiet technology that are reasonably achievable at Grand Canyon National Park, based on the Supplemental Notice of Proposed Rulemaking on Noise Limitations for Aircraft Operations in the Vicinity of Grand Canyon National Park, published in the Federal Register on March 24, 2003.

(2) **RESOLUTION OF DISPUTES.**—Subject to applicable administrative law and procedures, if the Secretary determines that a dispute among interested parties (including outside groups) or government agencies cannot be resolved within a reasonable time frame and could delay finalizing the rulemaking described in subsection (a), or implementation of final standards under such rule, due to controversy over adoption of quiet technology routes, establishment of incentives to encourage adoption of such routes, establishment of incentives to encourage adoption of quiet technology, or other measures to achieve substantial restoration of natural quiet, the Secretary shall refer such dispute to a recognized center for environmental conflict resolution.

**SEC. 324. NOISE EXPOSURE MAPS.**

Section 47503 is amended—

- (1) in subsection (a) by striking “1985,” and inserting “a forecast period that is at least 5 years in the future”; and
- (2) by striking subsection (b) and inserting the following:

“(b) **REVISED MAPS.**—If, in an area surrounding an airport, a change in the operation of the airport would establish a substantial new noncompatible use, or would significantly reduce noise over existing noncompatible uses, that is not reflected in either the existing conditions map or forecast map currently on file with the Federal Aviation Administration, the airport operator shall submit a revised noise exposure map to the Secretary showing the new non-compatible use or noise reduction.”

**SEC. 325. IMPLEMENTATION OF CHAPTER 4 NOISE STANDARDS.**

Not later than April 1, 2005, the Secretary of Transportation shall issue final regulations to implement Chapter 4 noise standards, consistent with the recommendations adopted by the International Civil Aviation Organization.

**SEC. 326. REDUCTION OF NOISE AND EMISSIONS FROM CIVILIAN AIRCRAFT.**

(a) **ESTABLISHMENT OF RESEARCH PROGRAM.**—From amounts made available under section

48102(a) of title 49, United States Code, the Secretary of Transportation shall establish a research program related to reducing community exposure to civilian aircraft noise or emissions through grants or other measures authorized under section 106(l)(6) of such title, including reimbursable agreements with other Federal agencies. The program shall include participation by educational and research institutions that have existing facilities for developing and testing noise reduction engine technology.

(b) **DESIGNATION OF INSTITUTE AS A CENTER OF EXCELLENCE.**—The Administrator of the Federal Aviation Administration shall designate an institution described in subsection (a) as a Center of Excellence for Noise and Emission Research.

**SEC. 327. SPECIAL RULE FOR AIRPORT IN ILLINOIS.**

(a) **IN GENERAL.**—Nothing in this title shall be construed to preclude the application of any provision of this Act to the State of Illinois or any other sponsor of a new airport proposed to be constructed in the State of Illinois.

(b) **AUTHORITY OF THE GOVERNOR.**—Nothing in this title shall be construed to preempt the authority of the Governor of the State of Illinois as of August 1, 2001, to approve or disapprove airport development projects.

**TITLE IV—AIRLINE SERVICE IMPROVEMENTS****Subtitle A—Small Community Air Service****SEC. 401. EXEMPTION FROM HOLD-IN REQUIREMENTS.**

Section 41734 is amended by adding at the end the following:

“(i) **EXEMPTION FROM HOLD-IN REQUIREMENTS.**—If, after the date of enactment of this subsection, an air carrier commences air transportation to an eligible place that is not receiving scheduled passenger air service as a result of the failure of the eligible place to meet requirements contained in an appropriations Act, the air carrier shall not be subject to the requirements of subsections (b) and (c) with respect to such air transportation.”

**SEC. 402. ADJUSTMENTS TO ACCOUNT FOR SIGNIFICANTLY INCREASED COSTS.**

(a) **IN GENERAL.**—Section 41737 is amended by adding at the end the following:

“(e) **ADJUSTMENTS TO ACCOUNT FOR SIGNIFICANTLY INCREASED COSTS.**—

“(1) **IN GENERAL.**—If the Secretary determines that air carriers are experiencing significantly increased costs in providing air service or air transportation for which compensation is being paid under this subchapter, the Secretary may increase the rates of compensation payable under this subchapter without regard to any agreement or requirement relating to the renegotiation of contracts or any notice requirement under section 41734.

“(2) **READJUSTMENT IF COSTS SUBSEQUENTLY DECLINE.**—If an adjustment is made under paragraph (1), and total unit costs subsequently decrease to at least the total unit cost reflected in the compensation rate, then the Secretary may reverse the adjustment previously made under paragraph (1) without regard to any agreement or requirement relating to the renegotiation of contracts or any notice requirement under section 41734.

“(3) **SIGNIFICANTLY INCREASED COSTS DEFINED.**—In this subsection, the term ‘significantly increased costs’ means a total unit cost increase (but not increases in individual unit costs) of 10 percent or more in relation to the total unit cost reflected in the compensation rate, based on the carrier’s internal audit of its financial statements if such cost increase is incurred for a period of at least 2 consecutive months.”

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect 30 days after the date of enactment of this Act.

**SEC. 403. JOINT PROPOSALS.**

Section 41740 is amended by inserting “, including joint fares,” after “joint proposals”.

**SEC. 404. ESSENTIAL AIR SERVICE AUTHORIZATION.**

Section 41742 is amended—

(1) in subsection (a)(2)—

(A) by striking “\$15,000,000” and inserting “\$77,000,000”; and

(B) by inserting before the period at the end “of which not more than \$12,000,000 per fiscal year may be used for the marketing incentive program for communities and for State marketing assistance”;

(2) by adding at the end of subsection (a) the following:

“(3) AUTHORIZATION FOR ADDITIONAL EMPLOYEES.—In addition to amounts authorized under paragraphs (1) and (2), there are authorized to be appropriated such sums as may be necessary for the Secretary of Transportation to hire and employ 4 additional employees for the office responsible for carrying out the essential air service program.”; and

(3) by striking subsection (c) and redesignating subsection (d) as subsection (c).

**SEC. 405. COMMUNITY AND REGIONAL CHOICE PROGRAMS.**

Subchapter II of chapter 417 is amended by adding at the end the following:

**“§41745. Community and regional choice programs**

“(a) ALTERNATE ESSENTIAL AIR SERVICE PILOT PROGRAM.—

“(1) ESTABLISHMENT.—The Secretary of Transportation shall establish an alternate essential air service pilot program in accordance with the requirements of this section.

“(2) ASSISTANCE TO ELIGIBLE PLACES.—In carrying out the program, the Secretary, instead of paying compensation to an air carrier to provide essential air service to an eligible place, may provide assistance directly to a unit of local government having jurisdiction over the eligible place or a State within the boundaries of which the eligible place is located.

“(3) USE OF ASSISTANCE.—A unit of local government or State receiving assistance for an eligible place under the program may use the assistance for any of the following purposes:

“(A) To provide assistance to air carriers that will use smaller equipment to provide the service and to consider increasing the frequency of service using such smaller equipment if the Secretary determines that passenger safety would not be compromised by the use of such smaller equipment and if the State or unit of local government waives the minimum service requirements under section 41732(b).

“(B) To provide assistance to an air carrier to provide on-demand air taxi service to and from the eligible place.

“(C) To provide assistance to a person to provide scheduled or on-demand surface transportation to and from the eligible place and an airport in another place.

“(D) In combination with other units of local government in the same region, to provide transportation services to and from all the eligible places in that region at an airport or other transportation center that can serve all the eligible places in that region.

“(E) To purchase aircraft to provide transportation to and from the eligible place or to purchase a fractional share in an aircraft to provide such transportation after the effective date of a rule the Secretary issues relating to fractional ownership.

“(F) To pay for other transportation or related services that the Secretary may permit.

**“(b) COMMUNITY FLEXIBILITY PILOT PROGRAM.—**

“(1) IN GENERAL.—The Secretary shall establish a pilot program for not more than 10 eligible places or consortia of units of local government.

“(2) ELECTION.—Under the program, the sponsor of an airport serving an eligible place may elect to forego any essential air service for which compensation is being provided under this subchapter for a 10-year period in exchange

for a grant from the Secretary equal in value to twice the compensation paid to provide such service in the most recent 12-month period.

“(3) GRANT.—Notwithstanding any other provision of law, the Secretary shall make a grant to each airport sponsor participating in the program for use on any project that—

“(A) is eligible for assistance under chapter 471 and complies with the requirements of that chapter;

“(B) is located on the airport property; or

“(C) will improve airport facilities in a way that would make such facilities more usable for general aviation.

“(c) FRACTIONALLY OWNED AIRCRAFT.—After the effective date of the rule referred to in subsection (a)(3)(E), only those operating rules that relate to an aircraft that is fractionally owned apply when an aircraft described in subsection (a)(3)(E) is used to provide transportation described in subsection (a)(3)(E).

“(d) APPLICATIONS.—

“(1) IN GENERAL.—An entity seeking to participate in a program under this section shall submit to the Secretary an application in such form and containing such information as the Secretary may require.

“(2) REQUIRED INFORMATION.—At a minimum, the application shall include—

“(A) a statement of the amount of compensation or assistance required; and

“(B) a description of how the compensation or assistance will be used.

“(e) PARTICIPATION REQUIREMENTS.—An eligible place for which compensation or assistance is provided under this section in a fiscal year shall not be eligible in that fiscal year for the essential air service that it would otherwise be entitled to under this subchapter.

“(f) SUBSEQUENT PARTICIPATION.—A unit of local government participating in the program under this subsection (a) in a fiscal year shall not be prohibited from participating in the basic essential air service program under this subchapter in a subsequent fiscal year if such unit is otherwise eligible to participate in such program.

“(g) FUNDING.—Amounts appropriated or otherwise made available to carry out the essential air service program under this subchapter shall be available to carry out this section.”.

**SEC. 406. CODE-SHARING PILOT PROGRAM.**

(a) IN GENERAL.—The Secretary of Transportation shall establish a pilot program under which the Secretary may require air carriers providing service with compensation under subchapter II of chapter 417 of title 49, United States Code, and major air carriers (as defined in section 41716(a)(2) of such title) serving large hub airports (as defined in section 40102 of such title) to participate in multiple code-share arrangements consistent with normal industry practice whenever and wherever the Secretary determines that such multiple code-sharing arrangements would improve air transportation services.

(b) LIMITATION.—The Secretary may not require air carriers to participate in the pilot program under this section for more than 10 communities receiving service under subchapter II of chapter 417 of title 49, United States Code.

**SEC. 407. TRACKING SERVICE.**

Subchapter II of chapter 417 is further amended by adding at the end the following:

**“§41746. Tracking service**

“The Secretary of Transportation shall require a carrier that provides essential air service to an eligible place and that receives compensation for such service under this subchapter to report not less than semiannually—

“(1) the percentage of flights to and from the place that arrive on time as defined by the Secretary; and

“(2) such other information as the Secretary considers necessary to evaluate service provided to passengers traveling to and from such place.”.

**SEC. 408. EAS LOCAL PARTICIPATION PROGRAM.**

(a) IN GENERAL.—Subchapter II of chapter 417 is further amended by adding at the end the following:

**“§41747. EAS local participation program**

“(a) IN GENERAL.—The Secretary of Transportation shall establish a pilot program under which not more than 10 designated essential air service communities located in proximity to hub airports are required to assume 10 percent of their essential air service subsidy costs for a 4-year period.

“(b) DESIGNATION OF COMMUNITIES.—

“(1) IN GENERAL.—The Secretary may not designate any community under this section unless it is located within 100 miles by road of a hub airport and is not located in a noncontiguous State. In making the designation, the Secretary may take into consideration the total traveltime between a community and the nearest hub airport, taking into account terrain, traffic, weather, road conditions, and other relevant factors.

“(2) ONE COMMUNITY PER STATE.—The Secretary may not designate—

“(A) more than 1 community per State under this section; or

“(B) a community in a State in which another community that is eligible to participate in the essential air service program has elected not to participate in the essential air service program as part of a pilot program under section 41745.

“(c) APPEAL OF DESIGNATION.—A community may appeal its designation under this section. The Secretary may withdraw the designation of a community under this section based on—

“(1) the airport sponsor's ability to pay; or

“(2) the relative lack of financial resources in a community, based on a comparison of the median income of the community with other communities in the State.

“(d) NON-FEDERAL SHARE.—

“(1) NON-FEDERAL AMOUNTS.—For purposes of this section, the non-Federal portion of the essential air service subsidy may be derived from contributions in kind, or through reduction in the amount of the essential air service subsidy through reduction of air carrier costs, increased ridership, pre-purchase of tickets, or other means. The Secretary shall provide assistance to designated communities in identifying potential means of reducing the amount of the subsidy without adversely affecting air transportation service to the community.

“(2) APPLICATION WITH OTHER MATCHING REQUIREMENTS.—This section shall apply to the Federal share of essential air service provided this subchapter, after the application of any other non-Federal share matching requirements imposed by law.

“(e) ELIGIBILITY FOR OTHER PROGRAMS NOT AFFECTED.—Nothing in this section affects the eligibility of a community or consortium of communities, an airport sponsor, or any other person to participate in any program authorized by this subchapter. A community designated under this section may participate in any program (including pilot programs) authorized by this subchapter for which it is otherwise eligible—

“(1) without regard to any limitation on the number of communities that may participate in that program; and

“(2) without reducing the number of other communities that may participate in that program.

“(f) SECRETARY TO REPORT TO CONGRESS ON IMPACT.—The Secretary shall transmit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on—

“(1) the economic condition of communities designated under this section before their designation;

“(2) the impact of designation under this section on such communities at the end of each of the 3 years following their designation; and

“(3) the impact of designation on air traffic patterns affecting air transportation to and

from communities designated under this section.”

(b) CONFORMING AMENDMENT.—The analysis for subchapter II of chapter 417 is amended by adding at the end the following:

“41745. Community and regional choice programs.

“41746. Tracking service.

“41747. EAS local participation program.”

**SEC. 409. MEASUREMENT OF HIGHWAY MILES FOR PURPOSES OF DETERMINING ELIGIBILITY OF ESSENTIAL AIR SERVICE SUBSIDIES.**

(a) REQUEST FOR SECRETARIAL REVIEW.—An eligible place (as defined in section 41731 of title 49, United States Code) with respect to which the Secretary has, in the 2-year period ending on the date of enactment of this Act, eliminated (or tentatively eliminated) compensation for essential air service to such place, or terminated (or tentatively terminated) the compensation eligibility of such place for essential air service, under section 332 of the Department of Transportation and Related Agencies Appropriations Act, 2000 (49 U.S.C. 41731 note), section 205 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (49 U.S.C. 41731 note), or any prior law of similar effect based on the highway mileage of such place from the nearest hub airport (as defined in section 40102 of such title), may request the Secretary to review such action.

(b) DETERMINATION OF MILEAGE.—In reviewing an action under subsection (a), the highway mileage between an eligible place and the nearest medium hub airport or large hub airport is the highway mileage of the most commonly used route between the place and the medium hub airport or large hub airport. In identifying such route, the Secretary shall identify the most commonly used route for a community by—

(1) consulting with the Governor of a State or the Governor's designee; and

(2) considering the certification of the Governor of a State or the Governor's designee as to the most commonly used route.

(c) ELIGIBILITY DETERMINATION.—Not later than 60 days after receiving a request under subsection (a), the Secretary shall—

(1) determine whether the eligible place would have been subject to an elimination of compensation eligibility for essential air service, or termination of the eligibility of such place for essential air service, under the provisions of law referred to in subsection (a) based on the determination of the highway mileage of such place from the nearest medium hub airport or large hub airport under subsection (b); and

(2) issue a final order with respect to the eligibility of such place for essential air service compensation under subchapter II of chapter 417 of title 49, United States Code.

(d) LIMITATION ON PERIOD OF FINAL ORDER.—A final order issued under subsection (c) shall terminate on September 30, 2007.

**SEC. 410. INCENTIVE PROGRAM.**

(a) PURPOSES.—The purposes of this section are—

(1) to enable essential air service communities to increase boardings and the level of passenger usage of airport facilities at an eligible place by providing technical, financial, and other marketing assistance to such communities and to States;

(2) to reduce subsidy costs under subchapter II of this chapter as a consequence of such increased usage; and

(3) to provide such communities with opportunities to obtain, retain, and improve transportation services.

(b) MARKETING PROGRAM.—Subchapter II of chapter 417 is further amended by adding at the end the following:

**“§41748. Marketing program**

“(a) IN GENERAL.—The Secretary of Transportation shall establish a marketing incentive program for eligible places that receive subsidized

service by an air carrier under section 41733. Under the program, the sponsor of the airport serving such an eligible place may receive a grant of not more than \$50,000 in a fiscal year to develop and implement a marketing plan to increase passenger boardings and the level of passenger usage of its airport facilities.

“(b) MATCHING REQUIREMENT; SUCCESS BONUSES—

“(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), not less than 25 percent of the publicly financed costs associated with a marketing plan to be developed and implemented under this section shall come from non-Federal sources. For purposes of this section—

“(A) the non-Federal portion of the publicly financed costs may be derived from contributions in kind; and

“(B) matching contributions from a State or unit of local government may not be derived, directly or indirectly, from Federal funds, but the use by the State or unit of local government of proceeds from the sale of bonds to provide the matching contribution is not considered to be a contribution derived directly or indirectly from Federal funds, without regard to the Federal income tax treatment of interest paid on those bonds or the Federal income tax treatment of those bonds.

“(2) BONUS FOR 25-PERCENT INCREASE IN USAGE.—Except as provided in paragraph (3), if, after any 12-month period during which a marketing plan has been in effect under this section with respect to an eligible place, the Secretary determines that the marketing plan has increased average monthly boardings, or the level of passenger usage, at the airport serving the eligible place, by 25 percent or more, then only 10 percent of the publicly financed costs associated with the marketing plan shall be required to come from non-Federal sources under this subsection for the following 12-month period.

“(3) BONUS FOR 50-PERCENT INCREASE IN USAGE.—If, after any 12-month period during which a marketing plan has been in effect under this section with respect to an eligible place, the Secretary determines that the marketing plan has increased average monthly boardings, or the level of passenger usage, at the airport serving the eligible place, by 50 percent or more, then no portion of the publicly financed costs associated with the marketing plan shall be required to come from non-Federal sources under this subsection for the following 12-month period.”

(b) CONFORMING AMENDMENT.—The analysis for subchapter II of chapter 417 is further amended by adding at the end the following:

“41748. Marketing program.”

**SEC. 411. NATIONAL COMMISSION ON SMALL COMMUNITY AIR SERVICE.**

(a) ESTABLISHMENT.—There is established a commission to be known as the “National Commission on Small Community Air Service” (in this section referred to as the “Commission”).

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 9 members of whom—

(A) 3 members shall be appointed by the Secretary;

(B) 2 members shall be appointed by the majority leader of the Senate;

(C) 1 member shall be appointed by the minority leader of the Senate;

(D) 2 members shall be appointed by the Speaker of the House of Representatives; and

(E) 1 member shall be appointed by the minority leader of the House of Representatives.

(2) QUALIFICATIONS.—Of the members appointed by the Secretary under paragraph (1)(A)—

(A) 1 member shall be a representative of a regional airline;

(B) 1 member shall be a representative of a small hub airport or nonhub airport (as such terms are defined in section 40102 of title 49, United States Code); and

(C) 1 member shall be a representative of a State aviation agency.

(3) TERMS.—Members shall be appointed for the life of the Commission.

(4) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(5) TRAVEL EXPENSES.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with subchapter I of chapter 57 of title 5, United States Code.

(c) CHAIRPERSON.—The Secretary shall designate, from among the individuals appointed under subsection (b)(1), an individual to serve as chairperson of the Commission.

(d) DUTIES.—

(1) STUDY.—The Commission shall undertake a study of—

(A) the challenges faced by small communities in the United States with respect to retaining and enhancing their scheduled commercial air service; and

(B) whether the existing Federal programs charged with helping small communities are adequate for them to retain and enhance their existing air service.

(2) ESSENTIAL AIR SERVICE COMMUNITIES.—In conducting the study, the Commission shall pay particular attention to the state of scheduled commercial air service in communities currently served by the essential air service program.

(e) RECOMMENDATIONS.—Based on the results of the study under subsection (d), the Commission shall make such recommendations as it considers necessary to—

(1) improve the state of scheduled commercial air service at small communities in the United States, especially communities described in subsection (d)(2); and

(2) improve the ability of small communities to retain and enhance their existing air service.

(f) REPORT.—Not later than 6 months after the date on which initial appointments of members to the Commission are completed, the Commission shall transmit to the President and Congress a report on the activities of the Commission, including recommendations made by the Commission under subsection (e).

(g) COMMISSION PANELS.—The chairperson of the Commission shall establish such panels consisting of members of the Commission as the chairperson determines appropriate to carry out the functions of the Commission.

(h) COMMISSION PERSONNEL MATTERS.—

(1) STAFF.—The Commission may appoint and fix the pay of such personnel as it considers appropriate.

(2) STAFF OF FEDERAL AGENCIES.—Upon request of the chairperson of the Commission, the head of any department or agency of the United States may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this section.

(3) OTHER STAFF AND SUPPORT.—Upon the request of the Commission, or a panel of the Commission, the Secretary shall provide the Commission or panel with professional and administrative staff and other support, on a reimbursable basis, to assist the Commission or panel in carrying out its responsibilities.

(i) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information (other than information required by any statute of the United States to be kept confidential by such department or agency) necessary for the Commission to carry out its duties under this section. Upon request of the chairperson of the Commission, the head of that department or agency shall furnish such nonconfidential information to the Commission.

(j) TERMINATION.—The Commission shall terminate on the 30th day following the date of transmittal of the report under subsection (f).

(k) APPLICABILITY OF THE FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(l) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary \$250,000 to be used to fund the Commission.

#### SEC. 412. SMALL COMMUNITY AIR SERVICE.

Section 41743 is amended—

(1) in the heading of subsection (a) by striking “PILOT”;

(2) in subsection (a) by striking “pilot”;

(3) in subsection (c)—

(A) by striking paragraph (3) and inserting the following:

“(3) STATE LIMIT.—Not more than 4 communities or consortia of communities, or a combination thereof, from the same State may be selected to participate in the program in any fiscal year.”;

(B) by adding at the end of paragraph (4) the following: “No community, consortia of communities, nor combination thereof may participate in the program in support of the same project more than once, but any community, consortia of communities, or combination thereof may apply, subsequent to such participation, to participate in the program in support of a different project.”; and

(C) in paragraph (5)—

(i) by striking “and” at the end of subparagraph (C);

(ii) by striking the period at the end of subparagraph (D) and inserting “; and”; and

(iii) by adding at the end the following:

“(E) the assistance will be used in a timely fashion.”;

(4) in subsection (e)(2)—

(A) by striking “and” the first place it appears and inserting a comma; and

(B) by inserting after “2003” the following “, and \$35,000,000 for each of fiscal years 2004 through 2008”; and

(5) in subsection (f) by striking “pilot”.

#### Subtitle B—Miscellaneous

#### SEC. 421. DATA ON INCIDENTS AND COMPLAINTS INVOLVING PASSENGER AND BAGGAGE SECURITY SCREENING.

Section 329 is amended by adding at the end the following:

“(e) INCIDENTS AND COMPLAINTS INVOLVING PASSENGER AND BAGGAGE SECURITY SCREENING.—

“(1) PUBLICATION OF DATA.—The Secretary of Transportation shall publish data on incidents and complaints involving passenger and baggage security screening in a manner comparable to other consumer complaint and incident data.

“(2) MONTHLY REPORTS FROM SECRETARY OF HOMELAND SECURITY.—To assist in the publication of data under paragraph (1), the Secretary of Transportation may request the Secretary of Homeland Security to periodically report on the number of complaints about security screening received by the Secretary of Homeland Security.”.

#### SEC. 422. DELAY REDUCTION ACTIONS.

(a) IN GENERAL.—Subchapter I of chapter 417 is amended by adding at the end the following new section:

##### “§ 41722. Delay reduction actions

“(a) SCHEDULING REDUCTION MEETINGS.—The Secretary of Transportation may request that air carriers meet with the Administrator of the Federal Aviation Administration to discuss flight reductions at severely congested airports to reduce overscheduling and flight delays during hours of peak operation if—

“(1) the Administrator determines that it is necessary to convene such a meeting; and

“(2) the Secretary determines that the meeting is necessary to meet a serious transportation need or achieve an important public benefit.

“(b) MEETING CONDITIONS.—Any meeting under subsection (a)—

“(1) shall be chaired by the Administrator;

“(2) shall be open to all scheduled air carriers; and

“(3) shall be limited to discussions involving the airports and time periods described in the Administrator’s determination.

“(c) FLIGHT REDUCTION TARGETS.—Before any such meeting is held, the Administrator shall establish flight reduction targets for the meeting and notify the attending air carriers of those targets not less than 48 hours before the meeting.

“(d) DELAY REDUCTION OFFERS.—An air carrier attending the meeting shall make any offer to meet a flight reduction target to the Administrator rather than to another carrier.

“(e) TRANSCRIPT.—The Administrator shall ensure that a transcript of the meeting is kept and made available to the public not later than 3 business days after the conclusion of the meeting.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 417 is amended by striking the item relating to section 41721 and inserting the following:

“41721. Reports by carriers on incidents involving animals during air transport.

“41722. Delay reduction actions.”.

#### SEC. 423. COLLABORATIVE DECISIONMAKING PILOT PROGRAM.

(a) IN GENERAL.—Chapter 401 is amended by adding at the end the following:

##### “§ 40129. Collaborative decisionmaking pilot program

“(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this section, the Administrator of the Federal Aviation Administration shall establish a collaborative decisionmaking pilot program in accordance with this section.

“(b) DURATION.—Except as provided in subsection (k), the pilot program shall be in effect for a period of 2 years.

“(c) GUIDELINES.—

“(1) ISSUANCE.—The Administrator, with the concurrence of the Attorney General, shall issue guidelines concerning the pilot program. Such guidelines, at a minimum, shall—

“(A) define a capacity reduction event;

“(B) establish the criteria and process for determining when a capacity reduction event exists that warrants the use of collaborative decisionmaking among carriers at airports participating in the pilot program; and

“(C) prescribe the methods of communication to be implemented among carriers during such an event.

“(2) VIEWS.—The Administrator may obtain the views of interested parties in issuing the guidelines.

“(d) EFFECT OF DETERMINATION OF EXISTENCE OF CAPACITY REDUCTION EVENT.—Upon a determination by the Administrator that a capacity reduction event exists, the Administrator may authorize air carriers and foreign air carriers operating at an airport participating in the pilot program to communicate for a period of time not to exceed 24 hours with each other concerning changes in their respective flight schedules in order to use air traffic capacity most effectively. The Administration shall facilitate and monitor such communication. The Attorney General, or the Attorney General’s designee, may monitor such communication.

“(e) SELECTION OF PARTICIPATING AIRPORTS.—Not later than 30 days after the date on which the Administrator establishes the pilot program, the Administrator shall select 2 airports to participate in the pilot program from among the most capacity-constrained airports in the Nation based on the Administration’s Airport Capacity Benchmark Report 2001 or more recent data on airport capacity that is available to the Administrator. The Administrator shall select an airport for participation in the pilot program if the Administrator determines that collaborative decisionmaking among air carriers and foreign air carriers would reduce delays at the airport and have beneficial effects on reducing delays in the national airspace system as a whole.

“(f) ELIGIBILITY OF AIR CARRIERS.—An air carrier or foreign air carrier operating at an air-

port selected to participate in the pilot program is eligible to participate in the pilot program if the Administrator determines that the carrier has the operational and communications capability to participate in the pilot program.

“(g) MODIFICATION OR TERMINATION OF PILOT PROGRAM AT AN AIRPORT.—The Administrator, with the concurrence of the Attorney General, may modify or end the pilot program at an airport before the term of the pilot program has expired, or may ban an air carrier or foreign air carrier from participating in the program, if the Administrator determines that the purpose of the pilot program is not being furthered by participation of the airport or air carrier or if the Secretary of Transportation, with the concurrence of the Attorney General, finds that the pilot program or the participation of an air carrier or foreign air carrier in the pilot program has had, or is having, an adverse effect on competition among carriers.

“(h) ANTITRUST IMMUNITY.—

“(1) IN GENERAL.—Unless, within 5 days after receiving notice from the Secretary of the Secretary’s intention to exercise authority under this subsection, the Attorney General submits to the Secretary a written objection to such action, including reasons for such objection, the Secretary may exempt an air carrier’s or foreign air carrier’s activities that are necessary to participate in the pilot program under this section from the antitrust laws for the sole purpose of participating in the pilot program. Such exemption shall not extend to any discussions, agreements, or activities outside the scope of the pilot program.

“(2) ANTITRUST LAWS DEFINED.—In this section, the term ‘antitrust laws’ has the meaning given that term in the first section of the Clayton Act (15 U.S.C. 12).

“(i) CONSULTATION WITH ATTORNEY GENERAL.—The Secretary shall consult with the Attorney General regarding the design and implementation of the pilot program, including determining whether a limit should be set on the number of occasions collaborative decisionmaking could be employed during the initial 2-year period of the pilot program.

“(j) EVALUATION.—

“(1) IN GENERAL.—Before the expiration of the 2-year period for which the pilot program is authorized under subsection (b), the Administrator shall determine whether the pilot program has facilitated more effective use of air traffic capacity and the Secretary, with the concurrence of the Attorney General, shall determine whether the pilot program has had an adverse effect on airline competition or the availability of air services to communities. The Administrator shall also examine whether capacity benefits resulting from the participation in the pilot program of an airport resulted in capacity benefits to other parts of the national airspace system.

“(2) OBTAINING NECESSARY DATA.—The Administrator may require participating air carriers and airports to provide data necessary to evaluate the pilot program’s impact.

“(k) EXTENSION OF PILOT PROGRAM.—At the end of the 2-year period for which the pilot program is authorized, the Administrator, with the concurrence of the Attorney General, may continue the pilot program for an additional 2 years and expand participation in the program to up to 7 additional airports if the Administrator determines pursuant to subsection (j) that the pilot program has facilitated more effective use of air traffic capacity and if the Secretary, with the concurrence of the Attorney General, determines that the pilot program has had no adverse effect on airline competition or the availability of air services to communities. The Administrator shall select the additional airports to participate in the extended pilot program in the same manner in which airports were initially selected to participate.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 401 is amended by adding at the end the following:

"40129. Collaborative decisionmaking pilot program."

**SEC. 424. COMPETITION DISCLOSURE REQUIREMENT FOR LARGE AND MEDIUM HUB AIRPORTS.**

Section 47107 is amended by adding at the end the following:

"(s) COMPETITION DISCLOSURE REQUIREMENT.—

"(1) IN GENERAL.—The Secretary of Transportation may approve an application under this subchapter for an airport development project grant for a large hub airport or a medium hub airport only if the Secretary receives assurances that the airport sponsor will provide the information required by paragraph (2) at such time and in such form as the Secretary may require.

"(2) COMPETITIVE ACCESS.—On February 1 and August 1 of each year, an airport that during the previous 6-month period has been unable to accommodate one or more requests by an air carrier for access to gates or other facilities at that airport in order to provide service to the airport or to expand service at the airport shall transmit a report to the Secretary that—

"(A) describes the requests;

"(B) provides an explanation as to why the requests could not be accommodated; and

"(C) provides a time frame within which, if any, the airport will be able to accommodate the requests.

"(3) SUNSET PROVISION.—This subsection shall cease to be effective beginning October 1, 2008."

**SEC. 425. SLOT EXEMPTIONS AT RONALD REAGAN WASHINGTON NATIONAL AIRPORT.**

(a) BEYOND-PERIMETER EXEMPTIONS.—Section 47178(a) is amended by striking "12" and inserting "24".

(b) WITHIN-PERIMETER EXEMPTIONS.—Section 47178(b) is amended—

(1) by striking "12" and inserting "20"; and

(2) by striking "that were designated as medium hub or smaller airports".

(c) LIMITATIONS.—

(1) GENERAL EXEMPTIONS.—Section 47178(c)(2) is amended by striking "two" and inserting "3".

(2) ALLOCATION OF WITHIN-PERIMETER EXEMPTIONS.—Section 47178(c)(3) is amended—

(A) in subparagraph (A)—

(i) by striking "four" and inserting "without regard to the criteria contained in subsection (b)(1), six"; and

(ii) by striking "and" at the end;

(B) in subparagraph (B)—

(i) by striking "eight" and inserting "ten"; and

(ii) by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(C) four shall be for air transportation to airports without regard to their size."

(d) APPLICATION PROCEDURES.—Section 47178(d) is amended to read as follows:

"(d) APPLICATION PROCEDURES.—The Secretary shall establish procedures to ensure that all requests for exemptions under this section are granted or denied within 90 days after the date on which the request is made."

**SEC. 426. DEFINITION OF COMMUTER AIRCRAFT.**

(a) IN GENERAL.—Section 47178 is amended by adding at the end the following:

"(f) COMMUTERS DEFINED.—For purposes of aircraft operations at Ronald Reagan Washington National Airport under subpart K of part 93 of title 14, Code of Federal Regulations, the term 'commuters' means aircraft operations using aircraft having a certificated maximum seating capacity of 76 or less."

(b) REGULATIONS.—The Administrator of the Federal Aviation Administration shall revise regulations to take into account the amendment made by subsection (a).

**SEC. 427. AIRFARES FOR MEMBERS OF THE ARMED FORCES.**

(a) FINDINGS.—Congress finds that—

(1) the Armed Forces is comprised of approximately 1,400,000 members who are stationed on

active duty at more than 6,000 military bases in 146 different countries;

(2) the United States is indebted to the members of the Armed Forces, many of whom are in grave danger due to their engagement in, or exposure to, combat;

(3) military service, especially in the current war against terrorism, often requires members of the Armed Forces to be separated from their families on short notice, for long periods of time, and under very stressful conditions;

(4) the unique demands of military service often preclude members of the Armed Forces from purchasing discounted advance airline tickets in order to visit their loved ones at home; and

(5) it is the patriotic duty of the people of the United States to support the members of the Armed Forces who are defending the Nation's interests around the world at great personal sacrifice.

(b) SENSE OF CONGRESS.—It is the sense of Congress that each United States air carrier should—

(1) establish for all members of the Armed Forces on active duty reduced air fares that are comparable to the lowest airfare for ticketed flights; and

(2) offer flexible terms that allow members of the Armed Forces on active duty to purchase, modify, or cancel tickets without time restrictions, fees, and penalties.

**SEC. 428. AIR CARRIERS REQUIRED TO HONOR TICKETS FOR SUSPENDED SERVICE.**

Section 145(c) of the Aviation and Transportation Security Act of 2001 (49 U.S.C. 40101 note) is amended by striking "more than" and all that follows through "after" and inserting "more than 36 months after".

**TITLE V—AVIATION SAFETY**

**SEC. 501. COUNTERFEIT OR FRAUDULENTLY REPRESENTED PARTS VIOLATIONS.**

Section 44726(a)(1) is amended—

(1) by striking "or" at the end of subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (C);

(3) by inserting after subparagraph (A) the following:

"(B) whose certificate is revoked under subsection (b); or"; and

(4) in subparagraph (C) (as redesignated by paragraph (2) of this section) by striking "convicted of such a violation." and inserting "described in subparagraph (A) or (B)".

**SEC. 502. RUNWAY SAFETY STANDARDS.**

(a) IN GENERAL.—Chapter 447 is amended by adding at the end the following:

**"§44727. Runway safety areas**

"(a) AIRPORTS IN ALASKA.—An airport owner or operator in the State of Alaska shall not be required to reduce the length of a runway or declare the length of a runway to be less than the actual pavement length in order to meet standards of the Federal Aviation Administration applicable to runway safety areas.

"(b) STUDY.—

"(1) IN GENERAL.—The Secretary shall conduct a study of runways at airports in States other than Alaska to determine which airports are affected by standards of the Federal Aviation Administration applicable to runway safety areas and to assess how operations at those airports would be affected if the owner or operator of the airport is required to reduce the length of a runway or declare the length of a runway to be less than the actual pavement length in order to meet such standards.

"(2) REPORT.—Not later than 9 months after the date of enactment of this section, the Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report containing the results of the study."

(b) CONFORMING AMENDMENT.—The analysis for chapter 447 is amended by adding at the end the following:

"44727. Runway safety areas."

**SEC. 503. CIVIL PENALTIES.**

(a) INCREASE IN MAXIMUM CIVIL PENALTY.—Section 46301(a) is amended—

(1) by striking "\$1,000" in paragraph (1) and inserting "\$25,000 (or \$1,100 if the person is an individual or small business concern)";

(2) by striking "or" the last place it appears in paragraph (1)(A);

(3) by striking "section" in paragraph (1)(A) and inserting "section", or section 47133";

(4) by striking paragraphs (2), (3), (6), and (7) and redesignating paragraphs (4), (5), and (8) as paragraphs (2), (3), and (4), respectively;

(5) by striking "4715" each place it appears in paragraph (2), as redesignated, and inserting "4719";

(6) by striking "paragraphs (1) and (2)" in paragraph (4), as redesignated, and inserting "paragraph (1)"; and

(7) by adding at the end the following:

"(5) PENALTIES APPLICABLE TO INDIVIDUALS AND SMALL BUSINESS CONCERNS.—

"(A) An individual (except an airman serving as an airman) or small business concern is liable to the Government for a civil penalty of not more than \$10,000 for violating—

"(i) chapter 401 (except sections 40103(a) and (d), 40105, 40106(b), 40116, and 40117), section 44502 (b) or (c), chapter 447 (except sections 44717–44723), or chapter 449 (except sections 44902, 44903(d), 44904, and 44907–44909) of this title; or

"(ii) a regulation prescribed or order issued under any provision to which clause (i) applies.

"(B) A civil penalty of not more than \$10,000 may be imposed for each violation under paragraph (1) committed by an individual or small business concern related to—

"(i) the transportation of hazardous material;

"(ii) the registration or recordation under chapter 441 of an aircraft not used to provide air transportation;

"(iii) a violation of section 44718(d), relating to the limitation on construction or establishment of landfills;

"(iv) a violation of section 44725, relating to the safe disposal of life-limited aircraft parts; or

"(v) a violation of section 40127 or section 41705, relating to discrimination.

"(C) Notwithstanding paragraph (1), the maximum civil penalty for a violation of section 4719 committed by an individual or small business concern shall be \$5,000 instead of \$1,000.

"(D) Notwithstanding paragraph (1), the maximum civil penalty for a violation of section 4712 (including a regulation prescribed or order issued under such section) or any other regulation prescribed by the Secretary by an individual or small business concern that is intended to afford consumer protection to commercial air transportation passengers shall be \$2,500 for each violation."

(b) INCREASE IN LIMIT ON ADMINISTRATIVE AUTHORITY AND CIVIL PENALTY.—Section 46301(d) is amended—

(1) by striking "more than \$50,000;" in paragraph (4)(A) and inserting "more than—

"(i) \$50,000 if the violation was committed by any person before the date of enactment of the Vision 100—Century of Aviation Reauthorization Act;

"(ii) \$400,000 if the violation was committed by a person other than an individual or small business concern on or after that date; or

"(iii) \$50,000 if the violation was committed by an individual or small business concern on or after that date;" and

(2) by striking "is \$50,000." in paragraph (8) and inserting "is—

"(A) \$50,000 if the violation was committed by any person before the date of enactment of the Vision 100—Century of Aviation Reauthorization Act;

“(B) \$400,000 if the violation was committed by a person other than an individual or small business concern on or after that date; or

“(C) \$50,000 if the violation was committed by an individual or small business concern on or after that date.”.

(c) **SMALL BUSINESS CONCERN DEFINED.**—Section 46301 is amended by adding at the end the following:

“(i) **SMALL BUSINESS CONCERN DEFINED.**—In this section, the term ‘small business concern’ has the meaning given that term in section 3 of the Small Business Act (15 U.S.C. 632).”.

(d) **CONFORMING AMENDMENTS.**—Title 49 is amended—

(1) in section 41705(b) by striking “46301(a)(3)(E)” and inserting “46301”; and

(2) in section 46304(a) by striking “, (2), or (3)”.

**SEC. 504. IMPROVEMENT OF CURRICULUM STANDARDS FOR AVIATION MAINTENANCE TECHNICIANS.**

(a) **IN GENERAL.**—The Administrator of the Federal Aviation Administration shall ensure that the training standards for airframe and powerplant mechanics under part 65 of title 14, Code of Federal Regulations, are updated and revised in accordance with this section. The Administrator may update and revise the training standards through the initiation of a formal rulemaking or by issuing an advisory circular or other agency guidance.

(b) **ELEMENTS FOR CONSIDERATION.**—The updated and revised standards required under subsection (a) shall include those curriculum adjustments that are necessary to more accurately reflect current technology and maintenance practices.

(c) **CERTIFICATION.**—Any adjustment or modification of current curriculum standards made pursuant to this section shall be reflected in the certification examinations of airframe and powerplant mechanics.

(d) **COMPLETION.**—The revised and updated training standards required by subsection (a) shall be completed not later than 12 months after the date of enactment of this Act.

(e) **PERIODIC REVIEWS AND UPDATES.**—The Administrator shall review the content of the curriculum standards for training airframe and powerplant mechanics referred to in subsection (a) every 3 years after completion of the revised and updated training standards required under subsection (a) as necessary to reflect current technology and maintenance practices.

**SEC. 505. ASSESSMENT OF WAKE TURBULENCE RESEARCH AND DEVELOPMENT PROGRAM.**

(a) **ASSESSMENT.**—The Administrator of the Federal Aviation Administration shall enter into an arrangement with the National Research Council for an assessment of the Federal Aviation Administration’s proposed wake turbulence research and development program. The assessment shall include—

(1) an evaluation of the research and development goals and objectives of the program;

(2) a listing of any additional research and development objectives that should be included in the program;

(3) any modifications that will be necessary for the program to achieve the program’s goals and objectives on schedule and within the proposed level of resources; and

(4) an evaluation of the roles, if any, that should be played by other Federal agencies, such as the National Aeronautics and Space Administration and the National Oceanic and Atmospheric Administration, in wake turbulence research and development, and how those efforts could be coordinated.

(b) **REPORT.**—A report containing the results of the assessment shall be provided to the Committee on Science of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate not later than 1 year after the date of enactment of this Act.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to the Administrator of the Federal Aviation Administration \$500,000 for fiscal year 2004 to carry out this section.

**SEC. 506. FAA INSPECTOR TRAINING.**

(a) **STUDY.**—

(1) **IN GENERAL.**—The Comptroller General shall conduct a study of the training of the aviation safety inspectors of the Federal Aviation Administration (in this section referred to as “FAA inspectors”).

(2) **CONTENTS.**—The study shall include—

(A) an analysis of the type of training provided to FAA inspectors;

(B) actions that the Federal Aviation Administration has undertaken to ensure that FAA inspectors receive up-to-date training on the latest technologies;

(C) the extent of FAA inspector training provided by the aviation industry and whether such training is provided without charge or on a quid-pro-quo basis; and

(D) the amount of travel that is required of FAA inspectors in receiving training.

(3) **REPORT.**—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study.

(b) **SENSE OF THE HOUSE.**—It is the sense of the House of Representatives that—

(1) FAA inspectors should be encouraged to take the most up-to-date initial and recurrent training on the latest aviation technologies;

(2) FAA inspector training should have a direct relation to an individual’s job requirements; and

(3) if possible, a FAA inspector should be allowed to take training at the location most convenient for the inspector.

(c) **WORKLOAD OF INSPECTORS.**—

(1) **STUDY BY NATIONAL ACADEMY OF SCIENCES.**—Not later than 90 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall make appropriate arrangements for the National Academy of Sciences to conduct a study of the assumptions and methods used by the Federal Aviation Administration to estimate staffing standards for FAA inspectors to ensure proper oversight over the aviation industry, including the designee program.

(2) **CONTENTS.**—The study shall include the following:

(A) A suggested method of modifying FAA inspectors staffing models for application to current local conditions or applying some other approach to developing an objective staffing standard.

(B) The approximate cost and length of time for developing such models.

(3) **REPORT.**—Not later than 12 months after the initiation of the arrangements under subsection (a), the National Academy of Sciences shall transmit to Congress a report on the results of the study.

**SEC. 507. AIR TRANSPORTATION OVERSIGHT SYSTEM PLAN.**

(a) **IN GENERAL.**—Within 90 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a plan containing an implementation schedule for addressing problems with the air transportation oversight system that have been identified in reports by the Comptroller General and the Inspector General of the Department of Transportation.

(b) **PLAN REQUIREMENTS.**—The plan transmitted by the Administrator under subsection (a) shall set forth the action the Administration will take under the plan—

(1) to develop specific, clear, and meaningful inspection guidance for the use by Administration aviation safety inspectors and analysts;

(2) to provide adequate training to Administration aviation safety inspectors in system safety concepts, risk analysis, and auditing;

(3) to ensure that aviation safety inspectors with the necessary qualifications and experience are physically located where they can satisfy the most important needs;

(4) to establish strong national leadership for the air transportation oversight system and to ensure that the system is implemented consistently across Administration field offices; and

(5) to extend the air transportation oversight system beyond the 10 largest air carriers, so it governs oversight of smaller air carriers as well.

**TITLE VI—AVIATION SECURITY**

**SEC. 601. CERTIFICATE ACTIONS IN RESPONSE TO A SECURITY THREAT.**

(a) **IN GENERAL.**—Chapter 461 is amended by adding at the end the following:

**“§46111. Certificate actions in response to a security threat**

“(a) **ORDERS.**—The Administrator of Federal Aviation Administration shall issue an order amending, modifying, suspending, or revoking any part of a certificate issued under this title if the Administrator is notified by the Under Secretary for Border and Transportation Security of the Department of Homeland Security that the holder of the certificate poses, or is suspected of posing, a risk of air piracy or terrorism or a threat to airline or passenger safety. If requested by the Under Secretary, the order shall be effective immediately.

“(b) **HEARINGS FOR CITIZENS.**—An individual who is a citizen of the United States who is adversely affected by an order of the Administrator under subsection (a) is entitled to a hearing on the record.

“(c) **HEARINGS.**—When conducting a hearing under this section, the administrative law judge shall not be bound by findings of fact or interpretations of laws and regulations of the Administrator or the Under Secretary.

“(d) **APPEALS.**—An appeal from a decision of an administrative law judge as the result of a hearing under subsection (b) shall be made to the Transportation Security Oversight Board established by section 115. The Board shall establish a panel to review the decision. The members of this panel (1) shall not be employees of the Transportation Security Administration, (2) shall have the level of security clearance needed to review the determination made under this section, and (3) shall be given access to all relevant documents that support that determination. The panel may affirm, modify, or reverse the decision.

“(e) **REVIEW.**—A person substantially affected by an action of a panel under subsection (d), or the Under Secretary when the Under Secretary decides that the action of the panel under this section will have a significant adverse impact on carrying out this part, may obtain review of the order under section 46110. The Under Secretary and the Administrator shall be made a party to the review proceedings. Findings of fact of the panel are conclusive if supported by substantial evidence.

“(f) **EXPLANATION OF DECISIONS.**—An individual who commences an appeal under this section shall receive a written explanation of the basis for the determination or decision and all relevant documents that support that determination to the maximum extent that the national security interests of the United States and other applicable laws permit.

“(g) **CLASSIFIED EVIDENCE.**—

“(1) **IN GENERAL.**—The Under Secretary, in consultation with the Administrator and the Director of Central Intelligence, shall issue regulations to establish procedures by which the Under Secretary, as part of a hearing conducted under this section, may provide an unclassified summary of classified evidence upon which the



order of the Administrator was based to the individual adversely affected by the order.

“(2) REVIEW OF CLASSIFIED EVIDENCE BY ADMINISTRATIVE LAW JUDGE.—

“(A) REVIEW.—As part of a hearing conducted under this section, if the order of the Administrator issued under subsection (a) is based on classified information (as defined in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App.), such information may be submitted by the Under Secretary to the reviewing administrative law judge, pursuant to appropriate security procedures, and shall be reviewed by the administrative law judge *ex parte* and in camera.

“(B) SECURITY CLEARANCES.—Pursuant to existing procedures and requirements, the Under Secretary shall, in coordination, as necessary, with the heads of other affected departments or agencies, ensure that administrative law judges reviewing orders of the Administrator under this section possess security clearances appropriate for their work under this section.

“(3) UNCLASSIFIED SUMMARIES OF CLASSIFIED EVIDENCE.—As part of a hearing conducted under this section and upon the request of the individual adversely affected by an order of the Administrator under subsection (a), the Under Secretary shall provide to the individual and reviewing administrative law judge, consistent with the procedures established under paragraph (1), an unclassified summary of any classified information upon which the order of the Administrator is based.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 461 is amended by adding at the end the following:

“46111. Certificate actions in response to a security threat.”.

(c) REVIEW.—The first sentence of section 46110(a) is amended by striking “part” and inserting “subtitle”.

#### SEC. 602. JUSTIFICATION FOR AIR DEFENSE IDENTIFICATION ZONE.

(a) IN GENERAL.—If the Administrator of the Federal Aviation Administration establishes an Air Defense Identification Zone (in this section referred to as an “ADIZ”), the Administrator shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, not later than 60 days after the date of establishing the ADIZ, a report containing an explanation of the need for the ADIZ. The Administrator also shall transmit to the Committees updates of the report every 60 days until the ADIZ is rescinded. The reports and updates shall be transmitted in classified form.

(b) EXISTING ADIZ.—If an ADIZ is in effect on the date of enactment of this Act, the Administrator shall transmit an initial report under subsection (a) not later than 30 days after such date of enactment.

(c) DESCRIPTION OF CHANGES TO IMPROVE OPERATIONS.—A report transmitted by the Administrator under this section shall include a description of any changes in procedures or requirements that could improve operational efficiency or minimize operational impacts of the ADIZ on pilots and controllers. This portion of the report may be transmitted in classified or unclassified form.

(d) DEFINITION.—In this section, the terms “Air Defense Identification Zone” and “ADIZ” each mean a zone established by the Administrator with respect to airspace under 18,000 feet in approximately a 15- to 38-mile radius around Washington, District of Columbia, for which security measures are extended beyond the existing 15-mile no-fly zone around Washington and in which general aviation aircraft are required to adhere to certain procedures issued by the Administrator.

#### SEC. 603. CREW TRAINING.

Section 44918 is amended to read as follows:

##### “§ 44918. Crew training

“(a) BASIC SECURITY TRAINING.—

“(1) IN GENERAL.—Each air carrier providing scheduled passenger air transportation shall carry out a training program for flight and cabin crew members to prepare the crew members for potential threat conditions.

“(2) PROGRAM ELEMENTS.—An air carrier training program under this subsection shall include, at a minimum, elements that address each of the following:

“(A) Recognizing suspicious activities and determining the seriousness of any occurrence.

“(B) Crew communication and coordination.

“(C) The proper commands to give passengers and attackers.

“(D) Appropriate responses to defend oneself.

“(E) Use of protective devices assigned to crew members (to the extent such devices are required by the Administrator of the Federal Aviation Administration or the Under Secretary for Border and Transportation Security of the Department of Homeland Security).

“(F) Psychology of terrorists to cope with hijacker behavior and passenger responses.

“(G) Situational training exercises regarding various threat conditions.

“(H) Flight deck procedures or aircraft maneuvers to defend the aircraft and cabin crew responses to such procedures and maneuvers.

“(I) The proper conduct of a cabin search, including explosive device recognition.

“(J) Any other subject matter considered appropriate by the Under Secretary.

“(3) APPROVAL.—An air carrier training program under this subsection shall be subject to approval by the Under Secretary.

“(4) MINIMUM STANDARDS.—Not later than one year after the date of enactment of the Vision 100—Century of Aviation Reauthorization Act, the Under Secretary may establish minimum standards for the training provided under this subsection and for recurrent training.

“(5) EXISTING PROGRAMS.—Notwithstanding paragraphs (3) and (4), any training program of an air carrier to prepare flight and cabin crew members for potential threat conditions that was approved by the Administrator or the Under Secretary before the date of enactment of the Vision 100—Century of Aviation Reauthorization Act may continue in effect until disapproved or ordered modified by the Under Secretary.

“(6) MONITORING.—The Under Secretary, in consultation with the Administrator, shall monitor air carrier training programs under this subsection and periodically shall review an air carrier’s training program to ensure that the program is adequately preparing crew members for potential threat conditions. In determining when an air carrier’s training program should be reviewed under this paragraph, the Under Secretary shall consider complaints from crew members. The Under Secretary shall ensure that employees responsible for monitoring the training programs have the necessary resources and knowledge.

“(7) UPDATES.—The Under Secretary, in consultation with the Administrator, shall order air carriers to modify training programs under this subsection to reflect new or different security threats.

“(b) ADVANCED SELF DEFENSE TRAINING.—

“(1) IN GENERAL.—Not later than one year after the date of enactment of the Vision 100—Century of Aviation Reauthorization Act, the Under Secretary shall develop and provide a voluntary training program for flight and cabin crew members of air carriers providing scheduled passenger air transportation.

“(2) PROGRAM ELEMENTS.—The training program under this subsection shall include both classroom and effective hands-on training in the following elements of self-defense:

“(A) Deterring a passenger who might present a threat.

“(B) Advanced control, striking, and restraint techniques.

“(C) Training to defend oneself against edged or contact weapons.

“(D) Methods to subdue and restrain an attacker.

“(E) Use of available items aboard the aircraft for self-defense.

“(F) Appropriate and effective responses to defend oneself, including the use of force against an attacker.

“(G) Any other element of training that the Under Secretary considers appropriate.

“(3) PARTICIPATION NOT REQUIRED.—A crew member shall not be required to participate in the training program under this subsection.

“(4) COMPENSATION.—Neither the Federal Government nor an air carrier shall be required to compensate a crew member for participating in the training program under this subsection.

“(5) FEES.—A crew member shall not be required to pay a fee for the training program under this subsection.

“(6) CONSULTATION.—In developing the training program under this subsection, the Under Secretary shall consult with law enforcement personnel and security experts who have expertise in self-defense training, terrorism experts, representatives of air carriers, the director of self-defense training in the Federal Air Marshals Service, flight attendants, labor organizations representing flight attendants, and educational institutions offering law enforcement training programs.

“(7) DESIGNATION OF TSA OFFICIAL.—The Under Secretary shall designate an official in the Transportation Security Administration to be responsible for implementing the training program under this subsection. The official shall consult with air carriers and labor organizations representing crew members before implementing the program to ensure that it is appropriate for situations that may arise on board an aircraft during a flight.

“(c) LIMITATION.—Actions by crew members under this section shall be subject to the provisions of section 44903(k).”.

#### SEC. 604. STUDY OF EFFECTIVENESS OF TRANSPORTATION SECURITY SYSTEM.

(a) IN GENERAL.—The Secretary of Homeland Security, in consultation with representatives of the aviation community, shall study the effectiveness of the aviation security system, including the air marshal program, hardening of cockpit doors, and security screening of passengers, checked baggage, and cargo.

(b) REPORT.—The Secretary shall transmit a report of the Secretary’s findings and conclusions together with any recommendations, including legislative recommendations, the Secretary may have for improving the effectiveness of aviation security to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 6 months after the date of enactment of this Act. In the report the Secretary shall also describe any re-deployment of Transportation Security Administration resources based on those findings and conclusions. The Secretary may submit the report to the Committees in classified and redacted form. The Secretary shall submit the report in lieu of the annual report required under section 44938(a) of title 49, United States Code, that is due March 31, 2004.

#### SEC. 605. AIRPORT SECURITY IMPROVEMENT PROJECTS.

(a) IN GENERAL.—Subchapter I of chapter 449 is amended by adding at the end the following:

##### “§ 44923. Airport security improvement projects

“(a) GRANT AUTHORITY.—Subject to the requirements of this section, the Under Secretary for Border and Transportation Security of the Department of Homeland Security may make grants to airport sponsors—

“(1) for projects to replace baggage conveyer systems related to aviation security;

“(2) for projects to reconfigure terminal baggage areas as needed to install explosive detection systems;

“(3) for projects to enable the Under Secretary to deploy explosive detection systems behind the

ticket counter, in the baggage sorting area, or inline with the baggage handling system; and

“(4) for other airport security capital improvement projects.

“(b) APPLICATIONS.—A sponsor seeking a grant under this section shall submit to the Under Secretary an application in such form and containing such information as the Under Secretary prescribes.

“(c) APPROVAL.—The Under Secretary, after consultation with the Secretary of Transportation, may approve an application of a sponsor for a grant under this section only if the Under Secretary determines that the project will improve security at an airport or improve the efficiency of the airport without lessening security.

“(d) LETTERS OF INTENT.—

“(1) ISSUANCE.—The Under Secretary may issue a letter of intent to a sponsor committing to obligate from future budget authority an amount, not more than the Federal Government's share of the project's cost, for an airport security improvement project (including interest costs and costs of formulating the project).

“(2) SCHEDULE.—A letter of intent under this subsection shall establish a schedule under which the Under Secretary will reimburse the sponsor for the Government's share of the project's costs, as amounts become available, if the sponsor, after the Under Secretary issues the letter, carries out the project without receiving amounts under this section.

“(3) NOTICE TO UNDER SECRETARY.—A sponsor that has been issued a letter of intent under this subsection shall notify the Under Secretary of the sponsor's intent to carry out a project before the project begins.

“(4) NOTICE TO CONGRESS.—The Under Secretary shall transmit to the Committees on Appropriations and Transportation and Infrastructure of the House of Representatives and the Committees on Appropriations and Commerce, Science and Transportation of the Senate a written notification at least 3 days before the issuance of a letter of intent under this section.

“(5) LIMITATIONS.—A letter of intent issued under this subsection is not an obligation of the Government under section 1501 of title 31, and the letter is not deemed to be an administrative commitment for financing. An obligation or administrative commitment may be made only as amounts are provided in authorization and appropriations laws.

“(6) STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit the obligation of amounts pursuant to a letter of intent under this subsection in the same fiscal year as the letter of intent is issued.

“(e) FEDERAL SHARE.—

“(1) IN GENERAL.—The Government's share of the cost of a project under this section shall be 90 percent for a project at a medium or large hub airport and 95 percent for a project at any other airport.

“(2) EXISTING LETTERS OF INTENT.—The Under Secretary shall revise letters of intent issued before the date of enactment of this section to reflect the cost share established in this subsection with respect to grants made after September 30, 2003.

“(f) SPONSOR DEFINED.—In this section, the term ‘sponsor’ has the meaning given that term in section 47102.

“(g) APPLICABILITY OF CERTAIN REQUIREMENTS.—The requirements that apply to grants and letters of intent issued under chapter 471 (other than section 47102(3)) shall apply to grants and letters of intent issued under this section.

“(h) AVIATION SECURITY CAPITAL FUND.—

“(1) IN GENERAL.—There is established within the Department of Homeland Security a fund to be known as the Aviation Security Capital Fund. The first \$250,000,000 derived from fees received under section 44940(a)(1) in each of fiscal years 2004 through 2007 shall be available to be deposited in the Fund. The Under Secretary shall impose the fee authorized by section

44940(a)(1) so as to collect at least \$250,000,000 in each of such fiscal years for deposit into the Fund. Amounts in the Fund shall be available to the Under Secretary to make grants under this section.

“(2) ALLOCATIONS.—Of the amount made available under paragraph (1) for a fiscal year, \$125,000,000 shall be allocated in such a manner that—

“(A) 40 percent shall be made available for large hub airports;

“(B) 20 percent shall be made available for medium hub airports;

“(C) 15 percent shall be made available for small hub airports and nonhub airports; and

“(D) 25 percent shall be distributed by the Secretary to any airport on the basis of aviation security risks.

“(3) DISCRETIONARY GRANTS.—Of the amount made available under paragraph (1) for a fiscal year, \$125,000,000 shall be used to make discretionary grants, with priority given to fulfilling intentions to obligate under letters of intent issued under subsection (d).

“(j) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—In addition to amounts made available under subsection (h), there is authorized to be appropriated to carry out this section \$250,000,000 for each of fiscal years 2004 through 2007. Such sums shall remain available until expended.

“(2) ALLOCATIONS.—50 percent of amounts appropriated pursuant to this subsection for a fiscal year shall be used for making allocations under subsection (h)(2) and 50 percent of such amounts shall be used for making discretionary grants under subsection (h)(3).”

(b) CONFORMING AMENDMENTS.—

(1) USE OF PASSENGER FEE FUNDS.—Section 44940(a)(1) is amended by inserting after subparagraph (G) the following:

“(H) The costs of security-related capital improvements at airports.

“(I) The costs of training pilots and flight attendants under sections 44918 and 44921.”

(2) LIMITATION ON COLLECTION.—Section 44940(d)(4) is amended by striking “Act.” and inserting “Act or in section 44923.”

#### SEC. 606. CHARTER SECURITY.

(a) IN GENERAL.—Section 44903 is amended by adding at the end the following:

“(1) AIR CHARTER PROGRAM.—

“(1) IN GENERAL.—The Under Secretary for Border and Transportation Security of the Department of Homeland Security shall implement an aviation security program for charter air carriers (as defined in section 40102(a)) with a maximum certificated takeoff weight of more than 12,500 pounds.

“(2) EXEMPTION FOR ARMED FORCES CHARTERS.—

“(A) IN GENERAL.—Paragraph (1) and the other requirements of this chapter do not apply to passengers and property carried by aircraft when employed to provide charter transportation to members of the armed forces.

“(B) SECURITY PROCEDURES.—The Secretary of Defense, in consultation with the Secretary of Homeland Security and the Secretary of Transportation, shall establish security procedures relating to the operation of aircraft when employed to provide charter transportation to members of the armed forces to or from an airport described in section 44903(c).

“(C) ARMED FORCES DEFINED.—In this paragraph, the term ‘armed forces’ has the meaning given that term by section 101(a)(4) of title 10.”

(b) REPEAL.—Section 132 of the Aviation and Transportation Security Act (49 U.S.C. 44944 note) is repealed.

#### SEC. 607. CAPPS2.

(a) IN GENERAL.—The Under Secretary for Border and Transportation Security of the Department of Homeland Security shall not implement, on other than a test basis, the computer assisted passenger prescreening system (commonly known as and in this section referred to

as “CAPPS2”) until the Under Secretary provides to Congress a certification that—

(1) a procedure is established enabling airline passengers, who are delayed or prohibited from boarding a flight because CAPPS2 determined that they might pose a security threat, to appeal such determination and correct information contained in CAPPS2;

(2) the error rate of the Government and private data bases that will be used to both establish identity and assign a risk level to a passenger under CAPPS2 will not produce a large number of false positives that will result in a significant number of passengers being mistaken as a security threat;

(3) the Under Secretary has demonstrated the efficacy and accuracy of all search tools in CAPPS2 and has demonstrated that CAPPS2 can make an accurate predictive assessment of those passengers who would constitute a security threat;

(4) the Secretary of Homeland Security has established an internal oversight board to oversee and monitor the manner in which CAPPS2 is being implemented;

(5) the Under Secretary has built in sufficient operational safeguards to reduce the opportunities for abuse;

(6) substantial security measures are in place to protect CAPPS2 from unauthorized access by hackers or other intruders;

(7) the Under Secretary has adopted policies establishing effective oversight of the use and operation of the system; and

(8) there are no specific privacy concerns with the technological architecture of the system.

(b) GAO REPORT.—Not later than 90 days after the date on which certification is provided under subsection (a), the Comptroller General shall submit a report to the Committees on Appropriations of the House of Representatives and the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science and Transportation of the Senate that assesses the impact of CAPPS2 on the issues listed in subsection (a) and on privacy and civil liberties. The report shall include any recommendations for practices, procedures, regulations, or legislation to eliminate or minimize adverse effect of CAPPS2 on privacy, discrimination, and other civil liberties.

#### SEC. 608. REPORT ON PASSENGER PRESCREENING PROGRAM.

(a) IN GENERAL.—Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security, after consultation with the Attorney General, shall submit a report in writing to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the potential impact of the Transportation Security Administration's proposed Computer Assisted Passenger Prescreening system, commonly known as CAPPS2, on the privacy and civil liberties of United States citizens.

(b) SPECIFIC ISSUES TO BE ADDRESSED.—The report shall address the following:

(1) Whether and for what period of time data gathered on individual travelers will be retained, who will have access to such data, and who will make decisions concerning access to such data.

(2) How the Transportation Security Administration will treat the scores assigned to individual travelers to measure the likelihood they may pose a security threat, including how long such scores will be retained and whether and under what circumstances they may be shared with other governmental, nongovernmental, or commercial entities.

(3) The role airlines and outside vendors or contractors will have in implementing and operating the system, and to what extent will they have access, or the means to obtain access, to data, scores, or other information generated by the system.

(4) The safeguards that will be implemented to ensure that data, scores, or other information generated by the system will be used only as officially intended.

(5) The procedures that will be implemented to mitigate the effect of any errors, and what procedural recourse will be available to passengers who believe the system has wrongly barred them from taking flights.

(6) The oversight procedures that will be implemented to ensure that, on an ongoing basis, privacy and civil liberties issues will continue to be considered and addressed with high priority as the system is installed, operated, and updated.

#### SEC. 609. ARMING CARGO PILOTS AGAINST TERRORISM.

(a) SENSE OF CONGRESS.—It is the sense of Congress that members of a flight deck crew of a cargo aircraft should be armed with a firearm or taser to defend the cargo aircraft against an attack by terrorists that could result in the use of the aircraft as a weapon of mass destruction or for other terrorist purposes.

(b) ARMING CARGO PILOTS AGAINST TERRORISM.—Section 44921 is amended—

(1) in subsection (a) by striking “passenger” each place that it appears; and

(2) in subsection (k)(2) by striking “or,” and all that follows before the period at the end and inserting “or any other flight deck crew member”; and

(3) by adding at the end of subsection (k) the following:

“(3) ALL-CARGO AIR TRANSPORTATION.—In this section, the term ‘air transportation’ includes all-cargo air transportation.”

(c) TIME FOR IMPLEMENTATION.—In carrying out the amendments made by subsection (d), the Under Secretary for Border and Transportation Security of the Department of Homeland Security shall ensure that passenger and cargo pilots are treated equitably in receiving access to training as Federal flight deck officers.

(d) EFFECT ON OTHER LAWS.—The requirements of subsection (e) shall have no effect on the deadlines for implementation contained in section 44921 of title 49, United States Code, as in effect on the day before the date of enactment of this Act.

#### SEC. 610. REMOVAL OF CAP ON TSA STAFFING LEVEL.

The matter appearing under the heading “AVIATION SECURITY” in the appropriations for the Transportation Security Administration in the Transportation and Related Agencies Appropriation Act, 2003 (Public Law 108-7; 117 Stat. 386) is amended by striking the fifth proviso.

#### SEC. 611. FOREIGN REPAIR STATIONS.

(a) OVERSIGHT PLAN.—Within 90 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a plan containing an implementation schedule to strengthen oversight of domestic and foreign repair stations and ensure that foreign repair stations that are certified by the Administrator under part 145 of title 14, Code of Federal Regulations, are subject to an equivalent level of safety, oversight, and quality control as those located in the United States.

(b) REPAIR STATION SECURITY.—

(1) IN GENERAL.—Subchapter I of chapter 449 is further amended by adding at the end the following:

##### “§44924. Repair station security

“(a) SECURITY REVIEW AND AUDIT.—To ensure the security of maintenance and repair work conducted on air carrier aircraft and components at foreign repair stations, the Under Secretary for Border and Transportation Security of the Department of Homeland Security, in consultation with the Administrator of the Fed-

eral Aviation Administration, shall complete a security review and audit of foreign repair stations that are certified by the Administrator under part 145 of title 14, Code of Federal Regulations, and that work on air carrier aircraft and components. The review shall be completed not later than 18 months after the date on which the Under Secretary issues regulations under subsection (f).

“(b) ADDRESSING SECURITY CONCERNS.—The Under Secretary shall require a foreign repair station to address the security issues and vulnerabilities identified in a security audit conducted under subsection (a) within 90 days of providing notice to the repair station of the security issues and vulnerabilities so identified and shall notify the Administrator that a deficiency was identified in the security audit.

“(c) SUSPENSIONS AND REVOCATIONS OF CERTIFICATES.—

“(1) FAILURE TO CARRY OUT EFFECTIVE SECURITY MEASURES.—If, after the 90th day on which a notice is provided to a foreign repair station under subsection (b), the Under Secretary determines that the foreign repair station does not maintain and carry out effective security measures, the Under Secretary shall notify the Administrator of the determination. Upon receipt of the determination, the Administrator shall suspend the certification of the repair station until such time as the Under Secretary determines that the repair station maintains and carries out effective security measures and transmits the determination to the Administrator.

“(2) IMMEDIATE SECURITY RISK.—If the Under Secretary determines that a foreign repair station poses an immediate security risk, the Under Secretary shall notify the Administrator of the determination. Upon receipt of the determination, the Administrator shall revoke the certification of the repair station.

“(3) PROCEDURES FOR APPEALS.—The Under Secretary, in consultation with the Administrator, shall establish procedures for appealing a revocation of a certificate under this subsection.

“(d) FAILURE TO MEET AUDIT DEADLINE.—If the security audits required by subsection (a) are not completed on or before the date that is 18 months after the date on which the Under Secretary issues regulations under subsection (f), the Administrator shall be barred from certifying any foreign repair station until such audits are completed for existing stations.

“(e) PRIORITY FOR AUDITS.—In conducting the audits described in subsection (a), the Under Secretary and the Administrator shall give priority to foreign repair stations located in countries identified by the Government as posing the most significant security risks.

“(f) REGULATIONS.—Not later than 240 days after the date of enactment of this section, the Under Secretary, in consultation with the Administrator, shall issue final regulations to ensure the security of foreign and domestic aircraft repair stations.

“(g) REPORT TO CONGRESS.—If the Under Secretary does not issue final regulations before the deadline specified in subsection (f), the Under Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing an explanation as to why the deadline was not met and a schedule for issuing the final regulations.”

(2) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 449 is amended by adding at the end the following:

“44924. Repair station security.”

#### SEC. 612. FLIGHT TRAINING.

(a) IN GENERAL.—Section 44939 is amended to read as follows:

##### “§44939. Training to operate certain aircraft

“(a) WAITING PERIOD.—A person operating as a flight instructor, pilot school, or aviation

training center or subject to regulation under this part may provide training in the operation of any aircraft having a maximum certificated takeoff weight of more than 12,500 pounds to an alien (as defined in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3))) or to any other individual specified by the Secretary of Homeland Security only if—

“(1) that person has first notified the Secretary that the alien or individual has requested such training and submitted to the Secretary, in such form as the Secretary may prescribe, the following information about the alien or individual:

“(A) full name, including any aliases used by the applicant or variations in spelling of the applicant's name;

“(B) passport and visa information;

“(C) country of citizenship;

“(D) date of birth;

“(E) dates of training; and

“(F) fingerprints collected by, or under the supervision of, a Federal, State, or local law enforcement agency or by another entity approved by the Federal Bureau of Investigation or the Secretary of Homeland Security, including fingerprints taken by United States Government personnel at a United States embassy or consulate; and

“(2) the Secretary has not directed, within 30 days after being notified under paragraph (1), that person not to provide the requested training because the Secretary has determined that the individual presents a risk to aviation or national security.

“(b) INTERRUPTION OF TRAINING.—If the Secretary of Homeland Security, more than 30 days after receiving notification under subsection (a) from a person providing training described in subsection (a), determines that the individual presents a risk to aviation or national security, the Secretary shall immediately notify the person providing the training of the determination and that person shall immediately terminate the training.

“(c) NOTIFICATION.—A person operating as a flight instructor, pilot school, or aviation training center or subject to regulation under this part may provide training in the operation of any aircraft having a maximum certificated takeoff weight of 12,500 pounds or less to an alien (as defined in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3))) or to any other individual specified by the Secretary of Homeland Security only if that person has notified the Secretary that the individual has requested such training and furnished the Secretary with that individual's identification in such form as the Secretary may require.

“(d) EXPEDITED PROCESSING.—Not later than 60 days after the date of enactment of this section, the Secretary shall establish a process to ensure that the waiting period under subsection (a) shall not exceed 5 days for an alien (as defined in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3))) who—

“(1) holds an airman's certification of a foreign country that is recognized by an agency of the United States, including a military agency, that permits an individual to operate a multi-engine aircraft that has a certificated takeoff weight of more than 12,500 pounds;

“(2) is employed by a foreign air carrier that is certified under part 129 of title 14, Code of Federal Regulations, and that has a security program approved under section 1546 of title 49, Code of Federal Regulations;

“(3) is an individual that has unescorted access to a secured area of an airport designated under section 44936(a)(1)(A)(ii); or

“(4) is an individual that is part of a class of individuals that the Secretary has determined that providing aviation training to presents minimal risk to aviation or national security because of the aviation training already possessed by such class of individuals.

“(e) **TRAINING.**—In subsection (a), the term ‘training’ means training received from an instructor in an aircraft or aircraft simulator and does not include recurrent training, ground training, or demonstration flights for marketing purposes.

“(f) **NONAPPLICABILITY TO CERTAIN FOREIGN MILITARY PILOTS.**—The procedures and processes required by subsections (a) through (d) shall not apply to a foreign military pilot endorsed by the Department of Defense for flight training in the United States and seeking training described in subsection (e) in the United States.

“(g) **FEE.**—

“(1) **IN GENERAL.**—The Secretary of Homeland Security may assess a fee for an investigation under this section, which may not exceed \$100 per individual (exclusive of the cost of transmitting fingerprints collected at overseas facilities) during fiscal years 2003 and 2004. For fiscal year 2005 and thereafter, the Secretary may adjust the maximum amount of the fee to reflect the costs of such an investigation.

“(2) **OFFSET.**—Notwithstanding section 3302 of title 31, any fee collected under this section—

“(A) shall be credited to the account in the Treasury from which the expenses were incurred and shall be available to the Secretary for those expenses; and

“(B) shall remain available until expended.

“(h) **INTERAGENCY COOPERATION.**—The Attorney General, the Director of Central Intelligence, and the Administrator of the Federal Aviation Administration shall cooperate with the Secretary in implementing this section.

“(i) **SECURITY AWARENESS TRAINING FOR EMPLOYEES.**—The Secretary shall require flight schools to conduct a security awareness program for flight school employees to increase their awareness of suspicious circumstances and activities of individuals enrolling in or attending flight school.”.

(b) **PROCEDURES.**—

(1) **IN GENERAL.**—Not later than 60 days after the date of enactment of this Act, the Secretary of Homeland Security shall promulgate an interim final rule to implement section 44939 of title 49, United States Code, as amended by subsection (a).

(2) **USE OF OVERSEAS FACILITIES.**—In order to implement section 44939 of title 49, United States Code, as amended by subsection (a), United States Embassies and Consulates that possess appropriate fingerprint collection equipment and personnel certified to capture fingerprints shall provide fingerprint services to aliens covered by that section if the Secretary requires fingerprints in the administration of that section, and shall transmit the fingerprints to the Secretary or other agency designated by the Secretary. The Attorney General and the Secretary of State shall cooperate with the Secretary of Homeland Security in carrying out this paragraph.

(3) **USE OF UNITED STATES FACILITIES.**—If the Secretary of Homeland Security requires fingerprinting in the administration of section 44939 of title 49, United States Code, the Secretary may designate locations within the United States that will provide fingerprinting services to individuals covered by that section.

(c) **EFFECTIVE DATE.**—The amendment made by subsection (a) takes effect on the effective date of the interim final rule required by subsection (b)(1).

(d) **REPORT.**—Not later than 1 year after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report on the effectiveness of the activities carried out under section 44939 of title 49, United States Code, in reducing risks to aviation security and national security.

#### SEC. 613. DEPLOYMENT OF SCREENERS AT KENAI, HOMER, AND VALDEZ, ALASKA.

Not later than 45 days after the date of enactment of this Act, the Administrator of the Transportation Security Administration shall deploy Federal screeners at Kenai, Homer, and Valdez, Alaska.

#### TITLE VII—AVIATION RESEARCH

##### SEC. 701. AUTHORIZATION OF APPROPRIATIONS.

Section 48102(a) of title 49, United States Code, is amended—

(1) by striking “to carry out sections 44504” and inserting “for conducting civil aviation research and development under sections 44504”;

(2) by striking “and” at the end of paragraph (7);

(3) by striking the period at the end of paragraph (8) and inserting a semicolon; and

(4) by adding at the end the following new paragraphs:

“(9) for fiscal year 2004, \$346,317,000, including—

“(A) \$65,000,000 for Improving Aviation Safety;

“(B) \$24,000,000 for Weather Safety Research;

“(C) \$27,500,000 for Human Factors and Aeromedical Research;

“(D) \$30,000,000 for Environmental Research and Development, of which \$20,000,000 shall be for research activities related to reducing community exposure to civilian aircraft noise or emissions;

“(E) \$7,000,000 for Research Mission Support;

“(F) \$10,000,000 for the Airport Cooperative Research Program;

“(G) \$1,500,000 for carrying out subsection (h) of this section;

“(H) \$42,800,000 for Advanced Technology Development and Prototyping;

“(I) \$30,300,000 for Safe Flight 21;

“(J) \$90,800,000 for the Center for Advanced Aviation System Development;

“(K) \$9,667,000 for Airports Technology-Safety; and

“(L) \$7,750,000 for Airports Technology-Efficiency;

“(10) for fiscal year 2005, \$356,192,000, including—

“(A) \$65,705,000 for Improving Aviation Safety;

“(B) \$24,260,000 for Weather Safety Research;

“(C) \$27,800,000 for Human Factors and Aeromedical Research;

“(D) \$30,109,000 for Environmental Research and Development, of which \$20,000,000 shall be for research activities related to reducing community exposure to civilian aircraft noise or emissions;

“(E) \$7,076,000 for Research Mission Support;

“(F) \$10,000,000 for the Airport Cooperative Research Program;

“(G) \$1,650,000 for carrying out subsection (h) of this section;

“(H) \$43,300,000 for Advanced Technology Development and Prototyping;

“(I) \$31,100,000 for Safe Flight 21;

“(J) \$95,400,000 for the Center for Advanced Aviation System Development;

“(K) \$2,200,000 for Free Flight Phase 2;

“(L) \$9,764,000 for Airports Technology-Safety; and

“(M) \$7,828,000 for Airports Technology-Efficiency;

“(11) for fiscal year 2006, \$352,157,000, including—

“(A) \$66,447,000 for Improving Aviation Safety;

“(B) \$24,534,000 for Weather Safety Research;

“(C) \$28,114,000 for Human Factors and Aeromedical Research;

“(D) \$30,223,000 for Environmental Research and Development, of which \$20,000,000 shall be for research activities related to reducing community exposure to civilian aircraft noise or emissions;

“(E) \$7,156,000 for Research Mission Support;

“(F) \$10,000,000 for the Airport Cooperative Research Program;

“(G) \$1,815,000 for carrying out subsection (h) of this section;

“(H) \$42,200,000 for Advanced Technology Development and Prototyping;

“(I) \$23,900,000 for Safe Flight 21;

“(J) \$100,000,000 for the Center for Advanced Aviation System Development;

“(K) \$9,862,000 for Airports Technology-Safety; and

“(L) \$7,906,000 for Airports Technology-Efficiency; and

“(12) for fiscal year 2007, \$356,261,000, including—

“(A) \$67,244,000 for Improving Aviation Safety;

“(B) \$24,828,000 for Weather Safety Research;

“(C) \$28,451,000 for Human Factors and Aeromedical Research;

“(D) \$30,586,000 for Environmental Research and Development, of which \$20,000,000 shall be for research activities related to reducing community exposure to civilian aircraft noise or emissions;

“(E) \$7,242,000 for Research Mission Support;

“(F) \$10,000,000 for the Airport Cooperation Research Program;

“(G) \$1,837,000 for carrying out subsection (h) of this section;

“(H) \$42,706,000 for Advanced Technology Development and Prototyping;

“(I) \$24,187,000 for Safe Flight 21;

“(J) \$101,200,000 for the Center for Advanced Aviation System Development;

“(K) \$9,980,000 for Airports Technology-Safety; and

“(L) \$8,000,000 for Airports Technology-Efficiency.”.

##### SEC. 702. FEDERAL AVIATION ADMINISTRATION SCIENCE AND TECHNOLOGY SCHOLARSHIP PROGRAM.

(a) (1) The Administrator of the Federal Aviation Administration shall establish a Federal Aviation Administration Science and Technology Scholarship Program to award scholarships to individuals that is designed to recruit and prepare students for careers in the Federal Aviation Administration.

(2) Individuals shall be selected to receive scholarships under this section through a competitive process primarily on the basis of academic merit, with consideration given to financial need and the goal of promoting the participation of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act.

(3) To carry out the Program the Administrator shall enter into contractual agreements with individuals selected under paragraph (2) under which the individuals agree to serve as full-time employees of the Federal Aviation Administration, for the period described in subsection (f)(1), in positions needed by the Federal Aviation Administration and for which the individuals are qualified, in exchange for receiving a scholarship.

(b) In order to be eligible to participate in the Program, an individual must—

(1) be enrolled or accepted for enrollment as a full-time student at an institution of higher education, as a junior or senior undergraduate or graduate student, in an academic field or discipline described in the list made available under subsection (d);

(2) be a United States citizen or permanent resident; and

(3) at the time of the initial scholarship award, not be an employee (as defined in section 2105 of title 5, United States Code).

(c) An individual seeking a scholarship under this section shall submit an application to the Administrator at such time, in such manner, and containing such information, agreements, or assurances as the Administrator may require.

(d) The Administrator shall make publicly available a list of academic programs and fields of study for which scholarships under the Program may be utilized and shall update the list as necessary.

(e)(1) The Administrator may provide a scholarship under the Program for an academic year if the individual applying for the scholarship has submitted to the Administrator, as part of the application required under subsection (c), a proposed academic program leading to a degree in a program or field of study on the list made available under subsection (d).

(2) An individual may not receive a scholarship under this section for more than 4 academic years, unless the Administrator grants a waiver.

(3) The dollar amount of a scholarship under this section for an academic year shall be determined under regulations issued by the Administrator, but shall in no case exceed the cost of attendance.

(4) A scholarship provided under this section may be expended for tuition, fees, and other authorized expenses as established by the Administrator by regulation.

(5) The Administrator may enter into a contractual agreement with an institution of higher education under which the amounts provided for a scholarship under this section for tuition, fees, and other authorized expenses are paid directly to the institution with respect to which the scholarship is provided.

(f)(1) The period of service for which an individual shall be obligated to serve as an employee of the Federal Aviation Administration is, except as provided in subsection (h)(2), 24 months for each academic year for which a scholarship under this section is provided.

(2)(A) Except as provided in subparagraph (B), obligated service under paragraph (1) shall begin not later than 60 days after the individual obtains the educational degree for which the scholarship was provided.

(B) The Administrator may defer the obligation of an individual to provide a period of service under paragraph (1) if the Administrator determines that such a deferral is appropriate. The Administrator shall prescribe the terms and conditions under which a service obligation may be deferred through regulation.

(g)(1) Scholarship recipients who fail to maintain a high level of academic standing, as defined by the Administrator by regulation, who are dismissed from their educational institutions for disciplinary reasons, or who voluntarily terminate academic training before graduation from the educational program for which the scholarship was awarded, shall be in breach of their contractual agreement and, in lieu of any service obligation arising under such agreement, shall be liable to the United States for repayment within 1 year after the date of default of all scholarship funds paid to them and to the institution of higher education on their behalf under the agreement, except as provided in subsection (h)(2). The repayment period may be extended by the Administrator when determined to be necessary, as established by regulation.

(2) Scholarship recipients who, for any reason, fail to begin or complete their service obligation after completion of academic training, or fail to comply with the terms and conditions of deferment established by the Administrator pursuant to subsection (f)(2)(B), shall be in breach of their contractual agreement. When recipients breach their agreements for the reasons stated in the preceding sentence, the recipient shall be liable to the United States for an amount equal to—

(A) the total amount of scholarships received by such individual under this section; plus

(B) the interest on the amounts of such awards which would be payable if at the time the awards were received they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States, multiplied by 3.

(h)(1) Any obligation of an individual incurred under the Program (or a contractual agreement thereunder) for service or payment shall be canceled upon the death of the individual.

(2) The Administrator shall by regulation provide for the partial or total waiver or suspension of any obligation of service or payment incurred by an individual under the Program (or a contractual agreement thereunder) whenever compliance by the individual is impossible or would involve extreme hardship to the individual, or if enforcement of such obligation with respect to the individual would be contrary to the best interests of the Government.

(i) For purposes of this section—

(1) the term “cost of attendance” has the meaning given that term in section 472 of the Higher Education Act of 1965;

(2) the term “institution of higher education” has the meaning given that term in section 101(a) of the Higher Education Act of 1965; and

(3) the term “Program” means the Federal Aviation Administration Science and Technology Scholarship Program established under this section.

(j)(1) There is authorized to be appropriated to the Federal Aviation Administration for the Program \$10,000,000 for each fiscal year.

(2) Amounts appropriated under this section shall remain available for 2 fiscal years.

(k) The Administrator may provide temporary internships to full-time students enrolled in an undergraduate or post-graduate program leading to an advanced degree in an aerospace-related or aviation safety-related field of endeavor.

#### **SEC. 703. NATIONAL AERONAUTICS AND SPACE ADMINISTRATION SCIENCE AND TECHNOLOGY SCHOLARSHIP PROGRAM.**

(a)(1) The Administrator of the National Aeronautics and Space Administration shall establish a National Aeronautics and Space Administration Science and Technology Scholarship Program to award scholarships to individuals that is designed to recruit and prepare students for careers in the National Aeronautics and Space Administration.

(2) Individuals shall be selected to receive scholarships under this section through a competitive process primarily on the basis of academic merit, with consideration given to financial need and the goal of promoting the participation of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act.

(3) To carry out the Program the Administrator shall enter into contractual agreements with individuals selected under paragraph (2) under which the individuals agree to serve as full-time employees of the National Aeronautics and Space Administration, for the period described in subsection (f)(1), in positions needed by the National Aeronautics and Space Administration and for which the individuals are qualified, in exchange for receiving a scholarship.

(b) In order to be eligible to participate in the Program, an individual must—

(1) be enrolled or accepted for enrollment as a full-time student at an institution of higher education, as a junior or senior undergraduate or graduate student, in an academic field or discipline described in the list made available under subsection (d);

(2) be a United States citizen or permanent resident; and

(3) at the time of the initial scholarship award, not be an employee (as defined in section 2105 of title 5, United States Code).

(c) An individual seeking a scholarship under this section shall submit an application to the Administrator at such time, in such manner, and containing such information, agreements, or assurances as the Administrator may require.

(d) The Administrator shall make publicly available a list of academic programs and fields of study for which scholarships under the Program may be utilized and shall update the list as necessary.

(e)(1) The Administrator may provide a scholarship under the Program for an academic year

if the individual applying for the scholarship has submitted to the Administrator, as part of the application required under subsection (c), a proposed academic program leading to a degree in a program or field of study on the list made available under subsection (d).

(2) An individual may not receive a scholarship under this section for more than 4 academic years, unless the Administrator grants a waiver.

(3) The dollar amount of a scholarship under this section for an academic year shall be determined under regulations issued by the Administrator, but shall in no case exceed the cost of attendance.

(4) A scholarship provided under this section may be expended for tuition, fees, and other authorized expenses as established by the Administrator by regulation.

(5) The Administrator may enter into a contractual agreement with an institution of higher education under which the amounts provided for a scholarship under this section for tuition, fees, and other authorized expenses are paid directly to the institution with respect to which the scholarship is provided.

(f)(1) The period of service for which an individual shall be obligated to serve as an employee of the National Aeronautics and Space Administration is, except as provided in subsection (h)(2), 24 months for each academic year for which a scholarship under this section is provided.

(2)(A) Except as provided in subparagraph (B), obligated service under paragraph (1) shall begin not later than 60 days after the individual obtains the educational degree for which the scholarship was provided.

(B) The Administrator may defer the obligation of an individual to provide a period of service under paragraph (1) if the Administrator determines that such a deferral is appropriate. The Administrator shall prescribe the terms and conditions under which a service obligation may be deferred through regulation.

(g)(1) Scholarship recipients who fail to maintain a high level of academic standing, as defined by the Administrator by regulation, who are dismissed from their educational institutions for disciplinary reasons, or who voluntarily terminate academic training before graduation from the educational program for which the scholarship was awarded, shall be in breach of their contractual agreement and, in lieu of any service obligation arising under such agreement, shall be liable to the United States for repayment within 1 year after the date of default of all scholarship funds paid to them and to the institution of higher education on their behalf under the agreement, except as provided in subsection (h)(2). The repayment period may be extended by the Administrator when determined to be necessary, as established by regulation.

(2) Scholarship recipients who, for any reason, fail to begin or complete their service obligation after completion of academic training, or fail to comply with the terms and conditions of deferment established by the Administrator pursuant to subsection (f)(2)(B), shall be in breach of their contractual agreement. When recipients breach their agreements for the reasons stated in the preceding sentence, the recipient shall be liable to the United States for an amount equal to—

(A) the total amount of scholarships received by such individual under this section; plus

(B) the interest on the amounts of such awards which would be payable if at the time the awards were received they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States, multiplied by 3.

(h)(1) Any obligation of an individual incurred under the Program (or a contractual agreement thereunder) for service or payment shall be canceled upon the death of the individual.

(2) The Administrator shall by regulation provide for the partial or total waiver or suspension

of any obligation of service or payment incurred by an individual under the Program (or a contractual agreement thereunder) whenever compliance by the individual is impossible or would involve extreme hardship to the individual, or if enforcement of such obligation with respect to the individual would be contrary to the best interests of the Government.

(i) For purposes of this section—

(1) the term “cost of attendance” has the meaning given that term in section 472 of the Higher Education Act of 1965;

(2) the term “institution of higher education” has the meaning given that term in section 101(a) of the Higher Education Act of 1965; and

(3) the term “Program” means the National Aeronautics and Space Administration Science and Technology Scholarship Program established under this section.

(j)(1) There is authorized to be appropriated to the National Aeronautics and Space Administration for the Program \$10,000,000 for each fiscal year.

(2) Amounts appropriated under this section shall remain available for 2 fiscal years.

(k) The Administrator may provide temporary internships to full-time students enrolled in an undergraduate or post-graduate program leading to an advanced degree in an aerospace-related or aviation safety-related field of endeavor.

#### SEC. 704. RESEARCH PROGRAM TO IMPROVE AIRFIELD PAVEMENTS.

(a) CONTINUATION OF PROGRAM.—The Administrator of the Federal Aviation Administration shall continue the program to consider awards to nonprofit concrete and asphalt pavement research foundations to improve the design, construction, rehabilitation, and repair of airfield pavements to aid in the development of safer, more cost effective, and more durable airfield pavements.

(b) USE OF GRANTS OR COOPERATIVE AGREEMENTS.—The Administrator may use grants or cooperative agreements in carrying out this section.

(c) STATUTORY CONSTRUCTION.—Nothing in this section requires the Administrator to prioritize an airfield pavement research program above safety, security, Flight 21, environment, or energy research programs.

#### SEC. 705. ENSURING APPROPRIATE STANDARDS FOR AIRFIELD PAVEMENTS.

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall review and determine whether the Federal Aviation Administration's standards used to determine the appropriate thickness for asphalt and concrete airfield pavements are in accordance with the Federal Aviation Administration's standard 20-year-life requirement using the most up-to-date available information on the life of airfield pavements. If the Administrator determines that such standards are not in accordance with that requirement, the Administrator shall make appropriate adjustments to the Federal Aviation Administration's standards for airfield pavements.

(b) REPORT.—Within 1 year after the date of enactment of this Act, the Administrator shall report the results of the review conducted under subsection (a) and the adjustments, if any, made on the basis of that review to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure and Committee on Science.

#### SEC. 706. DEVELOPMENT OF ANALYTICAL TOOLS AND CERTIFICATION METHODS.

The Federal Aviation Administration shall conduct research to promote the development of analytical tools to improve existing certification methods and to reduce the overall costs for the certification of new products.

#### SEC. 707. RESEARCH ON AVIATION TRAINING.

Section 48102(h)(1) of title 49, United States Code, is amended—

(1) by striking “or” at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting “; or”; and

(3) by adding at the end the following new subparagraph:

“(D) research on the impact of new technologies and procedures, particularly those related to aircraft flight deck and air traffic management functions, on training requirements for pilots and air traffic controllers.”.

#### SEC. 708. FAA CENTER FOR EXCELLENCE FOR APPLIED RESEARCH AND TRAINING IN THE USE OF ADVANCED MATERIALS IN TRANSPORT AIRCRAFT.

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall develop a Center for Excellence focused on applied research and training on the durability and maintainability of advanced materials in transport airframe structures. The Center shall—

(1) promote and facilitate collaboration among academia, the Federal Aviation Administration's Transportation Division, and the commercial aircraft industry, including manufacturers, commercial air carriers, and suppliers; and

(2) establish goals set to advance technology, improve engineering practices, and facilitate continuing education in relevant areas of study.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator \$500,000 for fiscal year 2004 to carry out this section.

#### SEC. 709. AIR TRANSPORTATION SYSTEM JOINT PLANNING AND DEVELOPMENT OFFICE.

(a) ESTABLISHMENT.—(1) The Secretary of Transportation shall establish in the Federal Aviation Administration a joint planning and development office to manage work related to the Next Generation Air Transportation System. The office shall be known as the Next Generation Air Transportation System Joint Planning and Development Office (in this section referred to as the “Office”).

(2) The responsibilities of the Office shall include—

(A) creating and carrying out an integrated plan for a Next Generation Air Transportation System pursuant to subsection (b);

(B) overseeing research and development on that system;

(C) creating a transition plan for the implementation of that system;

(D) coordinating aviation and aeronautics research programs to achieve the goal of more effective and directed programs that will result in applicable research;

(E) coordinating goals and priorities and coordinating research activities within the Federal Government with United States aviation and aeronautical firms;

(F) coordinating the development and utilization of new technologies to ensure that when available, they may be used to their fullest potential in aircraft and in the air traffic control system;

(G) facilitating the transfer of technology from research programs such as the National Aeronautics and Space Administration program and the Department of Defense Advanced Research Projects Agency program to Federal agencies with operational responsibilities and to the private sector; and

(H) reviewing activities relating to noise, emissions, fuel consumption, and safety conducted by Federal agencies, including the Federal Aviation Administration, the National Aeronautics and Space Administration, the Department of Commerce, and the Department of Defense.

(3) The Office shall operate in conjunction with relevant programs in the Department of Defense, the National Aeronautics and Space Administration, the Department of Commerce and the Department of Homeland Security. The Secretary of Transportation may request assistance from staff from those Departments and other Federal agencies.

(4) In developing and carrying out its plans, the Office shall consult with the public and ensure the participation of experts from the private sector including representatives of commercial aviation, general aviation, aviation labor groups, aviation research and development entities, aircraft and air traffic control suppliers, and the space industry.

(b) INTEGRATED PLAN.—The integrated plan shall be designed to ensure that the Next Generation Air Transportation System meets air transportation safety, security, mobility, efficiency, and capacity needs beyond those currently included in the Federal Aviation Administration's operational evolution plan and accomplishes the goals under subsection (c). The integrated plan shall include—

(1) a national vision statement for an air transportation system capable of meeting potential air traffic demand by 2025;

(2) a description of the demand and the performance characteristics that will be required of the Nation's future air transportation system, and an explanation of how those characteristics were derived, including the national goals, objectives, and policies the system is designed to further, and the underlying socioeconomic determinants, and associated models and analyses;

(3) a multiagency research and development roadmap for creating the Next Generation Air Transportation System with the characteristics outlined under clause (ii), including—

(A) the most significant technical obstacles and the research and development activities necessary to overcome them, including for each project, the role of each Federal agency, corporations, and universities;

(B) the annual anticipated cost of carrying out the research and development activities; and

(C) the technical milestones that will be used to evaluate the activities; and

(4) a description of the operational concepts to meet the system performance requirements for all system users and a timeline and anticipated expenditures needed to develop and deploy the system to meet the vision for 2025.

(c) GOALS.—The Next Generation Air Transportation System shall—

(1) improve the level of safety, security, efficiency, quality, and affordability of the National Airspace System and aviation services;

(2) take advantage of data from emerging ground-based and space-based communications, navigation, and surveillance technologies;

(3) integrate data streams from multiple agencies and sources to enable situational awareness and seamless global operations for all appropriate users of the system, including users responsible for civil aviation, homeland security, and national security;

(4) leverage investments in civil aviation, homeland security, and national security and build upon current air traffic management and infrastructure initiatives to meet system performance requirements for all system users;

(5) be scalable to accommodate and encourage substantial growth in domestic and international transportation and anticipate and accommodate continuing technology upgrades and advances;

(6) accommodate a wide range of aircraft operations, including airlines, air taxis, helicopters, general aviation, and unmanned aerial vehicles; and

(7) take into consideration, to the greatest extent practicable, design of airport approach and departure flight paths to reduce exposure of noise and emissions pollution on affected residents.

(d) REPORTS.—The Administrator of the Federal Aviation Administration shall transmit to the Committee on Commerce, Science, and Transportation in the Senate and the Committee on Transportation and Infrastructure and the Committee on Science in the House of Representatives—

(1) not later than 1 year after the date of enactment of this Act, the integrated plan required in subsection (b); and



(2) annually at the time of the President's budget request, a report describing the progress in carrying out the plan required under subsection (b) and any changes to that plan.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Office \$50,000,000 for each of the fiscal years 2004 through 2010.

**SEC. 710. NEXT GENERATION AIR TRANSPORTATION SENIOR POLICY COMMITTEE.**

(a) **IN GENERAL.**—The Secretary of Transportation shall establish a senior policy committee to work with the Next Generation Air Transportation System Joint Planning and Development Office. The senior policy committee shall be chaired by the Secretary.

(b) **MEMBERSHIP.**—In addition to the Secretary, the senior policy committee shall be composed of—

(1) the Administrator of the Federal Aviation Administration (or the Administrator's designee);

(2) the Administrator of the National Aeronautics and Space Administration (or the Administrator's designee);

(3) the Secretary of Defense (or the Secretary's designee);

(4) the Secretary of Homeland Security (or the Secretary's designee);

(5) the Secretary of Commerce (or the Secretary's designee);

(6) the Director of the Office of Science and Technology Policy (or the Director's designee); and

(7) designees from other Federal agencies determined by the Secretary of Transportation to have an important interest in, or responsibility for, other aspects of the system.

(c) **FUNCTION.**—The senior policy committee shall—

(1) advise the Secretary of Transportation regarding the national goals and strategic objectives for the transformation of the Nation's air transportation system to meet its future needs;

(2) provide policy guidance for the integrated plan for the air transportation system to be developed by the Next Generation Air Transportation System Joint Planning and Development Office;

(3) provide ongoing policy review for the transformation of the air transportation system;

(4) identify resource needs and make recommendations to their respective agencies for necessary funding for planning, research, and development activities; and

(5) make legislative recommendations, as appropriate, for the future air transportation system.

(d) **CONSULTATION.**—In carrying out its functions under this section, the senior policy committee shall consult with, and ensure participation by, the private sector (including representatives of general aviation, commercial aviation, aviation labor, and the space industry), members of the public, and other interested parties and may do so through a special advisory committee composed of such representatives.

**SEC. 711. ROTORCRAFT RESEARCH AND DEVELOPMENT INITIATIVE.**

(a) **OBJECTIVE.**—The Administrator of the Federal Aviation Administration shall establish a rotorcraft initiative with the objective of developing, and demonstrating in a relevant environment, within 10 years after the date of the enactment of this Act, technologies to enable rotorcraft with the following improvements relative to rotorcraft existing as of the date of the enactment of this Act:

(1) 80 percent reduction in noise levels on takeoff and on approach and landing as perceived by a human observer.

(2) Factor of 10 reduction in vibration.

(3) 30 percent reduction in empty weight.

(4) Predicted accident rate equivalent to that of fixed-wing aircraft in commercial service within 10 years after the date of the enactment of this Act.

(5) Capability for zero-ceiling, zero-visibility operations.

(b) **IMPLEMENTATION.**—Within 180 days after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration, in cooperation with the Administrator of the National Aeronautics and Space Administration, shall provide a plan to the Committee on Science of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate for the implementation of the initiative described in subsection (a).

**SEC. 712. AIRPORT COOPERATIVE RESEARCH PROGRAM.**

Section 44511 of title 49, United States Code, is amended by adding at the end the following new subsection:

“(f) **AIRPORT COOPERATIVE RESEARCH PROGRAM.**—

“(1) **ESTABLISHMENT.**—The Secretary of Transportation shall establish a 4-year pilot airport cooperative research program to—

“(A) identify problems that are shared by airport operating agencies and can be solved through applied research but that are not being adequately addressed by existing Federal research programs; and

“(B) fund research to address those problems.

“(2) **GOVERNANCE.**—The Secretary of Transportation shall appoint an independent governing board for the research program established under this subsection. The governing board shall be appointed from candidates nominated by national associations representing public airport operating agencies, airport executives, State aviation officials, and the scheduled airlines, and shall include representatives of appropriate Federal agencies. Section 14 of the Federal Advisory Committee Act shall not apply to the governing board.

“(3) **IMPLEMENTATION.**—The Secretary of Transportation shall enter into an arrangement with the National Academy of Sciences to provide staff support to the governing board established under paragraph (2) and to carry out projects proposed by the governing board that the Secretary considers appropriate.

“(4) **REPORT.**—Not later than 6 months after the expiration of the program under this subsection, the Secretary shall transmit to the Congress a report on the program, including recommendations as to the need for establishing a permanent airport cooperative research program.”

**TITLE VIII—MISCELLANEOUS**

**SEC. 801. DEFINITIONS.**

(a) **IN GENERAL.**—Section 47102 is amended—

(1) by redesignating paragraphs (19) and (20) as paragraphs (24) and (25), respectively;

(2) by inserting after paragraph (18) the following:

“(23) ‘small hub airport’ means a commercial service airport that has at least 0.05 percent but less than 0.25 percent of the passenger boardings.”;

(3) in paragraph (10) by striking subparagraphs (A) and (B) and inserting following:

“(A) means, unless the context indicates otherwise, revenue passenger boardings in the United States in the prior calendar year on an aircraft in service in air commerce, as the Secretary determines under regulations the Secretary prescribes; and

“(B) includes passengers who continue on an aircraft in international flight that stops at an airport in the 48 contiguous States, Alaska, or Hawaii for a nontraffic purpose.”;

(4) by redesignating paragraphs (10) through (18) as paragraphs (14) through (22), respectively;

(5) by inserting after paragraph (9) the following:

“(10) ‘large hub airport’ means a commercial service airport that has at least 1.0 percent of the passenger boardings.

“(12) ‘medium hub airport’ means a commercial service airport that has at least 0.25 percent

but less than 1.0 percent of the passenger boardings.

“(13) ‘nonhub airport’ means a commercial service airport that has less than 0.05 percent of the passenger boardings.”; and

(6) by striking paragraph (6) and inserting the following:

“(6) ‘amount made available under section 48103’ or ‘amount newly made available’ means the amount authorized for grants under section 48103 as that amount may be limited in that year by a subsequent law, but as determined without regard to grant obligation recoveries made in that year or amounts covered by section 47107(f).”

(b) **CONFORMING AMENDMENT.**—Section 47116(b)(1) is amended by striking “(as defined in section 41731 of this title)”.

**SEC. 802. REPORT ON AVIATION SAFETY REPORTING SYSTEM.**

Not later than 90 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall transmit to Congress a report on the long-term goals and objectives of the Aviation Safety Reporting System and how such system interrelates with other safety reporting systems of the Federal Government.

**SEC. 803. ANCHORAGE AIR TRAFFIC CONTROL.**

(a) **IN GENERAL.**—Not later than September 30, 2004, the Administrator of the Federal Aviation Administration shall complete a study and transmit a report to the appropriate committees regarding the feasibility of consolidating the Anchorage Terminal Radar Approach Control and the Anchorage Air Route Traffic Control Center at the existing Anchorage Air Route Traffic Control Center facility.

(b) **APPROPRIATE COMMITTEES.**—In this section, the term “appropriate committees” means the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

**SEC. 804. EXTENSION OF METROPOLITAN WASHINGTON AIRPORTS AUTHORITY.**

Section 49108 is amended by striking “2004” and inserting “2008”.

**SEC. 805. IMPROVEMENT OF AVIATION INFORMATION COLLECTION.**

(a) **IN GENERAL.**—Section 329(b)(1) is amended by striking “except that in no case” and all that follows through the semicolon at the end and inserting the following: “except that, if the Secretary requires air carriers to provide flight-specific information, the Secretary—

“(A) shall not disseminate fare information for a specific flight to the general public for a period of at least 9 months following the date of the flight; and

“(B) shall give due consideration to and address confidentiality concerns of carriers, including competitive implications, in any rule-making prior to adoption of a rule requiring the dissemination to the general public of any flight-specific fare.”;

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect on the date of the issuance of a final rule to modernize the Origin and Destination Survey of Airline Passenger Traffic, pursuant to the Advance Notice of Proposed Rulemaking published July 15, 1998 (Regulation Identifier Number 2105-AC71), that reduces the reporting burden for air carriers through electronic filing of the survey data collected under section 329(b)(1) of title 49, United States Code.

**SEC. 806. GOVERNMENT-FINANCED AIR TRANSPORTATION.**

Section 40118(f)(2) is amended by inserting before the period at the end the following: “, except that it shall not include a contract for the transportation by air of passengers”.

**SEC. 807. AIR CARRIER CITIZENSHIP.**

Section 40102(a)(15)(C) is amended by inserting “which is under the actual control of citizens of the United States,” before “and in which”.

**SEC. 808. UNITED STATES PRESENCE IN GLOBAL AIR CARGO INDUSTRY.**

Section 41703 is amended by adding at the end the following:

“(e) CARGO IN ALASKA.—

“(1) IN GENERAL.—For the purposes of subsection (c), eligible cargo taken on or off any aircraft at a place in Alaska in the course of transportation of that cargo by any combination of 2 or more air carriers or foreign air carriers in either direction between a place in the United States and a place outside the United States shall not be deemed to have broken its international journey in, be taken on in, or be destined for Alaska.

“(2) ELIGIBLE CARGO.—For purposes of paragraph (1), the term ‘eligible cargo’ means cargo transported between Alaska and any other place in the United States on a foreign air carrier (having been transported from, or thereafter being transported to, a place outside the United States on a different air carrier or foreign air carrier) that is carried—

“(A) under the code of a United States air carrier providing air transportation to Alaska;

“(B) on an air carrier way bill of an air carrier providing air transportation to Alaska;

“(C) under a term arrangement or block space agreement with an air carrier; or

“(D) under the code of a United States air carrier for purposes of transportation within the United States.”.

**SEC. 809. AVAILABILITY OF AIRCRAFT ACCIDENT SITE INFORMATION.**

(a) DOMESTIC AIR TRANSPORTATION.—Section 41113(b) is amended—

(1) in paragraph (16) by striking “the air carrier” the third place it appears; and

(2) by adding at the end the following:

“(17)(A) An assurance that, in the case of an accident that results in significant damage to a man-made structure or other property on the ground that is not government-owned, the air carrier will promptly provide notice, in writing, to the extent practicable, directly to the owner of the structure or other property about liability for any property damage and means for obtaining compensation.

“(B) At a minimum, the written notice shall advise an owner (i) to contact the insurer of the property as the authoritative source for information about coverage and compensation; (ii) to not rely on unofficial information offered by air carrier representatives about compensation by the air carrier for accident-site property damage; and (iii) to obtain photographic or other detailed evidence of property damage as soon as possible after the accident, consistent with restrictions on access to the accident site.

“(18) An assurance that, in the case of an accident in which the National Transportation Safety Board conducts a public hearing or comparable proceeding at a location greater than 80 miles from the accident site, the air carrier will ensure that the proceeding is made available simultaneously by electronic means at a location open to the public at both the origin city and destination city of the air carrier’s flight if that city is located in the United States.”.

(b) FOREIGN AIR TRANSPORTATION.—Section 41313(c) is amended by adding at the end the following:

“(17) NOTICE CONCERNING LIABILITY FOR MAN-MADE STRUCTURES.—

“(A) IN GENERAL.—An assurance that, in the case of an accident that results in significant damage to a man-made structure or other property on the ground that is not government-owned, the foreign air carrier will promptly provide notice, in writing, to the extent practicable, directly to the owner of the structure or other property about liability for any property damage and means for obtaining compensation.

“(B) MINIMUM CONTENTS.—At a minimum, the written notice shall advise an owner (i) to contact the insurer of the property as the authoritative source for information about coverage and compensation; (ii) to not rely on unofficial

information offered by foreign air carrier representatives about compensation by the foreign air carrier for accident-site property damage; and (iii) to obtain photographic or other detailed evidence of property damage as soon as possible after the accident, consistent with restrictions on access to the accident site.

“(18) SIMULTANEOUS ELECTRONIC TRANSMISSION OF NTSB HEARING.—An assurance that, in the case of an accident in which the National Transportation Safety Board conducts a public hearing or comparable proceeding at a location greater than 80 miles from the accident site, the foreign air carrier will ensure that the proceeding is made available simultaneously by electronic means at a location open to the public at both the origin city and destination city of the foreign air carrier’s flight if that city is located in the United States.”.

(c) UPDATE PLANS.—Air carriers and foreign air carriers shall update their plans under sections 41113 and 41313 of title 49, United States Code, respectively, to reflect the amendments made by subsections (a) and (b) of this section not later than 90 days after the date of enactment of this Act.

**SEC. 810. NOTICE CONCERNING AIRCRAFT ASSEMBLY.**

(a) IN GENERAL.—Subchapter I of chapter 417 is amended by adding at the end the following:

**“§41723. Notice concerning aircraft assembly**

“The Secretary of Transportation shall require, beginning after the last day of the 18-month period following the date of enactment of this section, an air carrier using an aircraft to provide scheduled passenger air transportation to display a notice, on an information placard available to each passenger on the aircraft, that informs the passengers of the nation in which the aircraft was finally assembled.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 417 is amended by inserting after the item relating to section 41722 the following:

“41723. Notice concerning aircraft assembly.”.

**SEC. 811. TYPE CERTIFICATES.**

Section 44704(a) is amended by adding at the end the following:

“(3) If the holder of a type certificate agrees to permit another person to use the certificate to manufacture a new aircraft, aircraft engine, propeller, or appliance, the holder shall provide the other person with written evidence, in a form acceptable to the Administrator, of that agreement. Such other person may manufacture a new aircraft, aircraft engine, propeller, or appliance based on a type certificate only if such other person is the holder of the type certificate or has permission from the holder.”.

**SEC. 812. RECIPROCAL AIRWORTHINESS CERTIFICATION.**

(a) IN GENERAL.—As part of their bilateral negotiations with foreign nations and their civil aviation counterparts, the Secretary of State and the Administrator of the Federal Aviation Administration shall facilitate the reciprocal airworthiness certification of aviation products.

(b) RECIPROCAL AIRWORTHINESS DEFINED.—In this section, the term “reciprocal airworthiness certification of aviation products” means that the regulatory authorities of each nation perform a similar review in certifying or validating the certification of aircraft and aircraft components of other nations.

**SEC. 813. INTERNATIONAL ROLE OF THE FAA.**

Section 40104(b) is amended to read as follows:

“(b) INTERNATIONAL ROLE OF THE FAA.—The Administrator shall promote and achieve global improvements in the safety, efficiency, and environmental effect of air travel by exercising leadership with the Administrator’s foreign counterparts, in the International Civil Aviation Organization and its subsidiary organizations, and other international organizations and fora, and with the private sector.”.

**SEC. 814. FLIGHT ATTENDANT CERTIFICATION.**

(a) IN GENERAL.—Chapter 447 is further amended by adding at the end the following:

**“§ 44729. Flight attendant certification**

“(a) CERTIFICATE REQUIRED.—

“(1) IN GENERAL.—No person may serve as a flight attendant aboard an aircraft of an air carrier unless that person holds a certificate of demonstrated proficiency from the Administrator of the Federal Aviation Administration. Upon the request of the Administrator or an authorized representative of the National Transportation Safety Board or another Federal agency, a person who holds such a certificate shall present the certificate for inspection within a reasonable period of time after the date of the request.

“(2) SPECIAL RULE FOR CURRENT FLIGHT ATTENDANTS.—An individual serving as a flight attendant on the effective date of this section may continue to serve aboard an aircraft as a flight attendant until completion by that individual of the required recurrent or requalification training and subsequent certification under this section.

“(3) TREATMENT OF FLIGHT ATTENDANT AFTER NOTIFICATION.—On the date that the Administrator is notified by an air carrier that an individual has the demonstrated proficiency to be a flight attendant, the individual shall be treated for purposes of this section as holding a certificate issued under the section.

“(b) ISSUANCE OF CERTIFICATE.—The Administrator shall issue a certificate of demonstrated proficiency under this section to an individual after the Administrator is notified by the air carrier that the individual has successfully completed all the training requirements for flight attendants approved by the Administrator.

“(c) DESIGNATION OF PERSON TO DETERMINE SUCCESSFUL COMPLETION OF TRAINING.—In accordance with part 183 of chapter 14, Code of Federal Regulation, the director of operations of an air carrier is designated to determine that an individual has successfully completed the training requirements approved by the Administrator for such individual to serve as a flight attendant.

“(d) SPECIFICATIONS RELATING TO CERTIFICATES.—Each certificate issued under this section shall—

“(1) be numbered and recorded by the Administrator;

“(2) contain the name, address, and description of the individual to whom the certificate is issued;

“(3) is similar in size and appearance to certificates issued to airmen;

“(4) contain the airplane group for which the certificate is issued; and

“(5) be issued not later than 120 days after the Administrator receives notification from the air carrier of demonstrated proficiency and, in the case of an individual serving as flight attendant on the effective date of this section, not later than 1 year after such effective date.

“(e) APPROVAL OF TRAINING PROGRAMS.—Air carrier flight attendant training programs shall be subject to approval by the Administrator. All flight attendant training programs approved by the Administrator in the 1-year period ending on the date of enactment of this section shall be treated as providing a demonstrated proficiency for purposes of meeting the certification requirements of this section.

“(f) FLIGHT ATTENDANT DEFINED.—In this section, the term ‘flight attendant’ means an individual working as a flight attendant in the cabin of an aircraft that has 20 or more seats and is being used by an air carrier to provide air transportation.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 447 is further amended by adding at the end the following:

“44729. Flight attendant certification.”.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on the 365th day following the date of enactment of this Act.

**SEC. 815. AIR QUALITY IN AIRCRAFT CABINS.**

(a) *IN GENERAL.*—The Administrator of the Federal Aviation Administration shall undertake the studies and analysis called for in the report of the National Research Council entitled "The Airliner Cabin Environment and the Health of Passengers and Crew".

(b) *REQUIRED ACTIVITIES.*—In carrying out this section, the Administrator, at a minimum, shall—

(1) conduct surveillance to monitor ozone in the cabin on a representative number of flights and aircraft to determine compliance with existing Federal Aviation Regulations for ozone;

(2) collect pesticide exposure data to determine exposures of passengers and crew;

(3) analyze samples of residue from aircraft ventilation ducts and filters after air quality incidents to identify the contaminants to which passengers and crew were exposed;

(4) analyze and study cabin air pressure and altitude; and

(5) establish an air quality incident reporting system.

(c) *REPORT.*—Not later than 30 months after the date of enactment of this Act, the Administrator shall transmit to Congress a report on the findings of the Administrator under this section.

**SEC. 816. RECOMMENDATIONS CONCERNING TRAVEL AGENTS.**

(a) *REPORT.*—Not later than 6 months after the date of enactment of this Act, the Secretary of Transportation shall transmit to Congress a report on any actions that should be taken with respect to recommendations made by the National Commission to Ensure Consumer Information and Choice in the Airline Industry on—

(1) the travel agent arbiter program; and  
(2) the special box on tickets for agents to include their service fee charges.

(b) *CONSULTATION.*—In preparing this report, the Secretary shall consult with representatives from the airline and travel agent industry.

**SEC. 817. REIMBURSEMENT FOR LOSSES INCURRED BY GENERAL AVIATION ENTITIES.**

(a) *IN GENERAL.*—The Secretary of Transportation may make grants to reimburse the following general aviation entities for the security costs incurred and revenue foregone as a result of the restrictions imposed by the Federal Government following the terrorist attacks on the United States that occurred on September 11, 2001:

(1) General aviation entities that operate at Ronald Reagan Washington National Airport.

(2) Airports that are located within 15 miles of Ronald Reagan Washington National Airport and were operating under security restrictions on the date of enactment of this Act and general aviation entities operating at those airports.

(3) General aviation entities affected by implementation of section 44939 of title 49, United States Code.

(4) General aviation entities that were affected by Federal Aviation Administration Notices to Airmen FDC 2/1099 and 3/1862 or section 352 of the Department of Transportation and Related Agencies Appropriations Act, 2003 (Public Law 108-7, division I), or both.

(5) Sightseeing operations that were not authorized to resume in enhanced class B air space under Federal Aviation Administration notice to airmen 1/1225.

(b) *DOCUMENTATION.*—Reimbursement under this section shall be made in accordance with sworn financial statements or other appropriate data submitted by each general aviation entity demonstrating the costs incurred and revenue foregone to the satisfaction of the Secretary.

(c) *GENERAL AVIATION ENTITY DEFINED.*—In this section, the term "general aviation entity" means any person (other than a scheduled air carrier or foreign air carrier, as such terms are defined in section 40102 of title 49, United States Code) that—

(1) operates nonmilitary aircraft under part 91 of title 14, Code of Federal Regulations, for the purpose of conducting its primary business;

(2) manufactures nonmilitary aircraft with a maximum seating capacity of fewer than 20 passengers or aircraft parts to be used in such aircraft;

(3) provides services necessary for nonmilitary operations under such part 91; or

(4) operates an airport, other than a primary airport (as such terms are defined in such section 40102), that—

(A) is listed in the national plan of integrated airport systems developed by the Federal Aviation Administration under section 47103 of such title; or

(B) is normally open to the public, is located within the confines of enhanced class B airspace (as defined by the Federal Aviation Administration in Notice to Airmen FDC 1/0618), and was closed as a result of an order issued by the Federal Aviation Administration in the period beginning September 11, 2001, and ending January 1, 2002, and remained closed as a result of that order on January 1, 2002.

Such term includes fixed based operators, flight schools, manufacturers of general aviation aircraft and products, persons engaged in non-scheduled aviation enterprises, and general aviation independent contractors.

(d) *AUTHORIZATION OF APPROPRIATIONS.*—There is authorized to be appropriated to carry out this section \$100,000,000. Such sums shall remain available until expended.

**SEC. 818. INTERNATIONAL AIR SHOW.**

If the Secretary of Defense conducts activities necessary to enable the United States to host a major international air show in the United States, the Secretary of Defense shall coordinate such activities with the Secretary of Transportation and the Secretary of Commerce.

**SEC. 819. REPORT ON CERTAIN MARKET DEVELOPMENTS AND GOVERNMENT POLICIES.**

Within 6 months after the date of enactment of this Act, the Department of Commerce, in consultation with the Department of Transportation and other appropriate Federal agencies, shall submit to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Science, and the House of Representatives Committee on Transportation and Infrastructure a report about market developments and government policies influencing the competitiveness of the United States jet transport aircraft industry that—

(1) describes the structural characteristics of the United States and the European Union jet transport industries, and the markets for these industries;

(2) examines the global market factors affecting the jet transport industries in the United States and the European Union, such as passenger and freight airline purchasing patterns, the rise of low-cost carriers and point-to-point service, the evolution of new market niches, and direct and indirect operating cost trends;

(3) reviews government regulations in the United States and the European Union that have altered the competitive landscape for jet transport aircraft, such as airline deregulation, certification and safety regulations, noise and emissions regulations, government research and development programs, advances in air traffic control and other infrastructure issues, corporate and air travel tax issues, and industry consolidation strategies;

(4) analyzes how changes in the global market and government regulations have affected the competitive position of the United States aerospace and aviation industry vis-à-vis the European Union aerospace and aviation industry; and

(5) describes any other significant developments that affect the market for jet transport aircraft.

**SEC. 820. INTERNATIONAL AIR TRANSPORTATION.**

It is the sense of Congress that, in an effort to modernize its regulations, the Department of

Transportation should formally define "Fifth Freedom" and "Seventh Freedom" consistently for both scheduled and charter passenger and cargo traffic.

**SEC. 821. REIMBURSEMENT OF AIR CARRIERS FOR CERTAIN SCREENING AND RELATED ACTIVITIES.**

The Secretary of Homeland Security, subject to the availability of funds (other than amounts in the Aviation Trust Fund) provided for this purpose, shall reimburse air carriers and airports for—

(1) the screening of catering supplies; and  
(2) checking documents at security checkpoints.

**SEC. 822. CHARTER AIRLINES.**

(a) *IN GENERAL.*—Section 41104(b)(1) is amended—

(1) by striking "paragraph (3)" and inserting "paragraphs (3) and (4)";

(2) by inserting a comma after "regularly scheduled charter air transportation"; and

(3) by striking "flight unless such air transportation" and all that follows through the period at the end and inserting the following: "flight, to or from an airport that—

"(A) does not have an airport operating certificate issued under part 139 of title 14, Code of Federal Regulations (or any subsequent similar regulation); or

"(B) has an airport operating certificate issued under part 139 of title 14, Code of Federal Regulations (or any subsequent similar regulation) if the airport—

"(i) is a reliever airport (as defined in section 47102) and is designated as such in the national plan of integrated airports maintained under section 47103; and

"(ii) is located within 20 nautical miles (22 statute miles) of 3 or more airports that each annually account for at least 1 percent of the total United States passenger enplanements and at least 2 of which are operated by the sponsor of the reliever airport."

(b) *WAIVERS.*—Section 41104(b) is amended by adding at the end the following:

"(4) *WAIVERS.*—The Secretary may waive the application of paragraph (1)(B) in cases in which the Secretary determines that the public interest so requires."

**SEC. 823. GENERAL AVIATION FLIGHTS AT RONALD REAGAN WASHINGTON NATIONAL AIRPORT.**

(a) *SECURITY PLAN.*—The Secretary of Homeland Security shall develop and implement a security plan to permit general aviation aircraft to land and take off at Ronald Reagan Washington National Airport.

(b) *LANDINGS AND TAKE OFFS.*—The Administrator of the Federal Aviation Administration shall allow general aviation aircraft that comply with the requirements of the security plan to land and take off at the Airport except during any period that the President suspends the plan developed under subsection (a) due to national security concerns.

(c) *REPORT.*—If the President suspends the security plan developed under subsection (a), the President shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report on the reasons for the suspension not later than 30 days following the first day of the suspension. The report may be submitted in classified form.

**SEC. 824. REVIEW OF AIR CARRIER COMPENSATION.**

Not later than 6 months after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on the criteria and procedures used by the Secretary of Transportation under the Air Transportation Safety and System Stabilization Act (Public Law 107-42) to compensate air carriers after the terrorist attack of September 11, 2001, with a particular focus on whether it is appropriate—

(1) to compensate air carriers for the decrease in value of their aircraft after September 11, 2001; and

(2) to ensure that comparable air carriers receive comparable percentages of the maximum compensation payable under section 103(b)(2) of such Act (49 U.S.C. 40101 note).

**SEC. 825. NOISE CONTROL PLAN FOR CERTAIN AIRPORTS.**

(a) **IN GENERAL.**—Notwithstanding chapter 475 of title 49, United States Code, or any other provision of law or regulation, a sponsor of a commercial service airport that does not own the airport land and is a party to a long-term lease agreement with a Federal agency (other than the Department of Defense or the Department of Transportation) may impose restrictions on, or prohibit, the operation of Stage 2 aircraft weighing less than 75,000 pounds, in order to help meet the noise control plan contained within the lease agreement. A use restriction imposed pursuant to this section must contain reasonable exemptions for public health and safety.

(b) **PUBLIC NOTICE AND COMMENT.**—Prior to imposing restrictions on, or prohibiting, the operation of Stage 2 aircraft weighing less than 75,000 pounds, the airport sponsor must provide reasonable notice and the opportunity to comment on the proposed airport use restriction limited to no more than 90 days.

(c) **DEFINITIONS.**—In this section, the terms "Stage 2 aircraft" and "Stage 3 aircraft" have the same meaning as those terms have in chapter 475 of title 49, United States Code.

**SEC. 826. GAO REPORT ON AIRLINES ACTIONS TO IMPROVE FINANCES AND ON EXECUTIVE COMPENSATION.**

(a) **FINDING.**—Congress finds that the United States Government has by law provided substantial financial assistance to United States commercial airlines in the form of war risk insurance and reinsurance and other economic benefits and has imposed substantial economic and regulatory burdens on those airlines. In order to determine the economic viability of the domestic commercial airline industry and to evaluate the need for additional measures or the modification of existing laws, Congress needs more frequent information and independently verified information about the financial condition of these airlines.

(b) **GAO REPORT.**—Not later than one year after the date of enactment of this Act, the Comptroller General shall prepare a report for Congress analyzing the financial condition of the United States airline industry in its efforts to reduce the costs, improve the earnings and profits and balances of each individual air carrier. The report shall recommend steps that the industry should take to become financially self sufficient.

(c) **GAO AUTHORITY.**—In order to compile the report required by subsection (b), the Comptroller General, or any of the Comptroller General's duly authorized representatives, shall have access for the purpose of audit and examination to any books, accounts, documents, papers, and records of such air carriers that relate to the information required to compile the report. The Comptroller General shall submit with the report a certification as to whether the Comptroller General has had access to sufficient information to make informed judgments on the matters covered by the report.

(d) **REPORTS TO CONGRESS.**—The Comptroller General shall transmit the report required by subsection (b) to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

**SEC. 827. PRIVATE AIR CARRIAGE IN ALASKA.**

(a) **IN GENERAL.**—Due to the demands of conducting business within and from the State of Alaska, the Secretary of Transportation shall permit, under the operating rules of part 91 of title 14 of the Code of Federal Regulations where common carriage is not involved, a company, located in the State of Alaska, to organize a subsidiary where the only enterprise of the subsidiary is to provide air carriage of officials,

employees, guests, and property of the company, or its affiliate, when the carriage—

(1) originates or terminates in the State of Alaska;

(2) is by an aircraft with no more than 20 seats;

(3) is within the scope of, and incidental to, the business of the company or its affiliate; and

(4) no charge, assessment, or fee is made for the carriage in excess of the cost of owning, operating, and maintaining the airplane.

(b) **LIMITATION ON STATUTORY CONSTRUCTION.**—Nothing in this subsection shall be construed as prohibiting a company from making intermediate stops in providing air carriage under this section.

**SEC. 828. REPORT ON WAIVERS OF PREFERENCE FOR BUYING GOODS PRODUCED IN THE UNITED STATES.**

Not later than 90 days after the date of the enactment of this Act, the Secretary of Transportation shall submit to Congress a report on the waiver contained in section 50101(b) of title 49, United States Code (relating to buying goods produced in the United States). The report shall, at a minimum, include—

(1) a list of all waivers granted pursuant to that section during the 2-year period ending on the date of enactment of that section; and

(2) for each such waiver—

(A) the specific authority under such section 50101(b) for granting the waiver; and

(B) the rationale for granting the waiver.

**SEC. 829. NAVIGATION FEES.**

(a) **IN GENERAL.**—Section 4(b) of the Rivers and Harbors Appropriation Act of July 5, 1884 (33 U.S.C. 5(b); 116 Stat. 2133), is amended—

(1) by striking "or" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting "; or"; and

(3) by adding at the end the following:

"(3) property taxes on vessels or watercraft, other than vessels or watercraft that are primarily engaged in foreign commerce if those taxes are permissible under the United States Constitution."

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) is effective on and after November 25, 2002.

**TITLE IX—EXTENSION OF AIRPORT AND AIRWAY TRUST FUND EXPENDITURE AUTHORITY**

**SEC. 901. EXTENSION OF EXPENDITURE AUTHORITY.**

(a) **IN GENERAL.**—Paragraph (1) of section 9502(d) of the Internal Revenue Code of 1986 (relating to expenditures from Airport and Airway Trust Fund) is amended—

(1) by striking "October 1, 2003" and inserting "October 1, 2007", and

(2) by inserting before the semicolon at the end of subparagraph (A) the following: "or the Vision 100—Century of Aviation Reauthorization Act".

(b) **CONFORMING AMENDMENT.**—Paragraph (2) of section 9502(f) of the Internal Revenue Code of 1986 is amended by striking "October 1, 2003" and inserting "October 1, 2007".

**SEC. 902. TECHNICAL CORRECTION TO FLIGHT SEGMENT.**

(a) **SPECIAL RULE.**—Section 4261(e)(4) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

"(D) **SPECIAL RULE FOR AMOUNTS PAID FOR DOMESTIC SEGMENTS BEGINNING AFTER 2002.**—If an amount is paid during a calendar year for a domestic segment beginning in a later calendar year, then the rate of tax under subsection (b) on such amount shall be the rate in effect for the calendar year in which such amount is paid."

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect as if included in the provisions of the Taxpayer Relief Act of 1997 to which they relate.

And the Senate agree to the same.

From the Committee on Transportation and Infrastructure, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

DON YOUNG,  
JOHN L. MICA,  
VERNON J. EHLERS,  
ROBIN HAYES,  
DENNY REHBERG,  
JOHNNY ISAKSON,

From the Committee on Energy and Commerce, for consideration of sec. 521 of the House bill and sec. 508 of the Senate amendment, and modifications committed to conference:

BILLY TAUZIN,  
JOE BARTON,

From the Committee on Government Reform, for consideration of secs. 404 and 438 of the House bill and sec. 108 of the Senate amendment, and modifications committed to conference:

TOM DAVIS,  
CHRISTOPHER SHAYS,

From the Committee on the Judiciary, for consideration of secs. 106, 301, 405, 505, and 507 of the Senate amendment, and modifications committed to conference:

F. JAMES SENSENBRENNER,  
HOWARD COBLE,

From the Committee on Resources, for consideration of secs. 204 and 409 of the House bill and sec. 201 of the Senate amendment, and modifications committed to conference:

RICHARD POMBO,  
JIM GIBBONS,

Provided that Mr. Renzi is appointed in lieu of Mr. Pombo for consideration of sec. 409 of the House bill, and modifications committed to conference:

RICK RENZI,

From the Committee on Science, for consideration of sec. 102 of the House bill and secs. 102, 104, 621, 622, 641, 642, 661, 662, 663, 667, and 669 of the Senate amendment, and modifications committed to conference:

SHERWOOD BOEHLERT,  
DANA ROHRBACHER,

From the Committee on Ways and Means, for consideration of title VI of the House bill and title VII of the Senate amendment, and modifications committed to conference:

WILLIAM THOMAS,  
DAVE CAMP,

*Managers on the Part of the House.*

JOHN MCCAIN,  
TED STEVENS,  
CONRAD BURNS,  
TRENT LOTT,  
KAY BAILEY HUTCHISON,

*Managers on the Part of the Senate.*

**JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE**

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the Bill (H.R. 2115), to amend title 49, United States Code, to reauthorize programs for the Federal Aviation Administration, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for

clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

#### 1. SHORT TITLE

##### *House bill*

"Flight 100-Century of Aviation Reauthorization Act".

##### *Senate Amendment*

"Aviation Investment and Revitalization Vision Act".

##### *Conference substitute*

"Vision 100—Century of Aviation Reauthorization Act".

#### 2. LENGTH OF AUTHORIZATION

##### *House bill*

4 years.

##### *Senate amendment*

3 years.

##### *Conference substitute*

House bill.

#### 3. FINDINGS

##### *House bill*

No provision.

##### *Senate amendment*

Contains findings about the importance of aviation and the need to invest more into it.

##### *Conference substitute*

Contains some of the findings in the Senate amendment.

#### 4. FAA OPERATIONS

##### *House bill*

Authorizes \$7.591 billion in 2004, \$7.732 billion in 2005, \$7.889 billion in 2006, and \$8.064 billion in 2007 for the operating costs of the FAA.

##### *Senate amendment*

Authorizes same amount for first 3 years. No authorization for 2007.

##### *Conference substitute*

House bill.

#### 5. FAA TRAINING FACILITY

##### *House bill*

Authorizes some of this money to be used to fully utilize the FAA's Palm Coast management training facility.

##### *Senate amendment*

No provision.

##### *Conference substitute*

House bill funded out of the Operations account. Conferees agreed to authorize funding for the FAA Center for Management Development to operate training courses and to support associated student travel for both residential and field courses.

#### 6. AEROSPACE AND AVIATION LIAISON

##### *House bill*

Directs the President to establish a task force to look for ways to ensure that technology developed for military aircraft is more quickly and easily transferred to applications for improving and modernizing the fleet of civilian aircraft.

##### *Senate amendment*

Establishes an office in DOT to coordinate research, development of new technologies, transfer of technology from research done by NASA and DOD to the private sector, review activities related to noise and emissions. One time and annual report required. \$2 million is authorized over 2 years.

##### *Conference substitute*

Assigns the newly established Air Transportation System Joint Planning and Development Office (item #8) responsibility to facilitate the transfer of technology from research programs such as those managed by

the National Aeronautics and Space Administration and the Department of Defense Advanced Research Projects Agency to Federal agencies with operational responsibilities, and to the private sector.

#### 7. COMPETITIVENESS OF U.S. JET TRANSPORTATION INDUSTRY

##### *House bill*

No provision.

##### *Senate amendment*

Within 6 months the office established above shall report on the market developments and government policies influencing U.S. competitiveness.

##### *Conference substitute*

Senate Amendment with modifications.

#### 8. NEXT GENERATION AIR TRAFFIC CONTROL OFFICE

##### *House bill*

Authorizes some of this money to be used to establish an office in the FAA to develop and plan for the implementation of the next generation air traffic control system.

##### *Senate amendment*

Similar provision but sets forth in greater detail the duties of the office. Authorizes \$300 million over 7 years. Head of office reports directly to the Administrator.

##### *Conference substitute*

Establishes a Next Generation Air Transportation System Joint Planning and Development Office. Requires the office to produce an integrated research and development plan to meet air transportation needs in the year 2025. Requires the plan to be transmitted to Congress within one year after the date of enactment, and an annual update describing the progress in carrying out the plan. Authorizes \$50 million a year through FY 2010.

#### 9. TASK FORCE ON FUTURE OF AIR TRANSPORTATION SYSTEM

##### *House bill*

Implements the recommendation of the National Commission on the Future of the Aerospace Industry and requires the President to establish a Task Force to develop an integrated plan to transform the Nation's air traffic control and air transportation system to meet its future needs.

##### *Senate amendment*

No provision.

##### *Conference substitute*

Requires the Secretary of Transportation to establish a Next Generation Air Transportation Senior Policy Committee to work with the Joint Planning and Development Office. Members shall be the Administrator or designee from NASA and FAA, the Secretary of Defense, Secretary of Homeland Security, Secretary of Commerce, Director of the Office of Science and Technology Policy, and designees from Federal agencies determined by the Secretary of Transportation to have an important role. The Senior Policy Committee shall advise the Secretary and provide policy guidance on the integrated plan for the air transportation system to be developed by the Next Generation Air Transportation System Joint Planning and Development Office.

#### 10. APPROACH PROCEDURES

##### *House bill*

Authorizes some of this money to be used to establish approach and departure procedures using GPS and ADS-B in order to meet the needs of air ambulance services.

##### *Senate amendment*

No provision.

##### *Conference substitute*

In lieu of House provision, change expiration date in paragraphs (C), (D), and (E) of

section 106(k)(2) of current law to conform to the number of years of the bill. Include reference to ADS-B in the Statement of Managers.

#### 11. AIR TRAFFIC CONTROLLERS

##### *House bill*

Paragraph (k)(5) in section 101 authorizes some of this money to be used to hire additional air traffic controllers in order to accommodate the growth in air traffic and address the expected increase in retirement of experienced controllers.

Subsection (c) of section 101 directs the FAA to develop a human capital workforce strategy to address the need for more air traffic controllers as called for by the General Accounting Office.

##### *Senate amendment*

Section 103(b). Requires FAA beginning in FY 2004 budget submission and thereafter to include description of controller staffing plan including strategies for addressing anticipated retirements.

##### *Conference substitute*

Senate section 103(b) but starts with 2005 budget submission. Subsection (c) of House bill.

#### 12. ALASKAN AVIATION CORRIDORS

##### *House bill*

Authorizes some of this money be used to complete the mapping of Alaska's main aviation corridors.

##### *Senate amendment*

No provision.

##### *Conference substitute*

House bill.

#### 13. AVIATION SAFETY REPORTING SYSTEM

##### *House bill*

Authorizes \$3.4 million to be used for the Aviation Safety Reporting System. Calls for a report on the Aviation Safety Reporting System.

##### *Senate amendment*

No provision.

##### *Conference substitute*

House bill.

#### 14. BUREAU OF TRANSPORTATION STATISTICS

##### *House bill*

Authorizes \$3.971 million in 04, \$4.045 million in 05, \$4.127 million in 06, and \$4.219 million in 05 from the Trust Fund for the Bureau of Transportation Statistics' activities collecting and analyzing aviation data.

##### *Senate amendment*

No provision.

##### *Conference substitute*

House bill.

#### 15. AIR NAVIGATION FACILITIES AND EQUIPMENT (F&E)

##### *House bill*

Authorizes \$3.138 billion in 2004, \$2.993 billion in 2005, \$3.053 billion in 2006, and \$3.110 billion in 2007.

##### *Senate amendment*

Authorizes \$2.196 billion in 2004, \$2.971 in 2005, and \$3.030 billion for 2006. No authorization for 2007. Requires biannual reports on the changes in budget and schedule, and technical risks, of 10 largest F&E programs.

##### *Conference substitute*

House bill with Senate report. The Managers expect that no research and development activities will be funded from the facilities and equipment account.

#### 16. GULF OF MEXICO

##### *House bill*

Money is authorized from the F&E account to improve the safety and efficiency of air operations in the Gulf of Mexico.

*Senate amendment*

Similar provision but worded differently. Money is authorized from general fund.

*Conference substitute*

House bill.

## 17. WAKE TURBULENCE

*House bill*

\$20 million per year for 4 years is authorized from F&E for FAA to demonstrate the benefits of a wake vortex advisory system.

*Senate amendment*

\$500,000 is authorized for 1 year from RED for FAA to contract with the National Research Council for an assessment of FAA's wake vortex research program. Report required in 1 year.

*Conference substitute*

House provision for the life of bill, except the Conferees agreed to delete a specific dollar amount and change the wording to allow development and analysis of multiple systems.

## 18. PRECISION APPROACH LANDING SYSTEMS

*House bill*

\$20 million per year is authorized per year from F&E for precision approach landing systems in mountainous areas contingent on FAA certifying or approving these systems. Maintenance of equipment not included.

*Senate amendment*

Similar provision but no requirement for FAA approval and no specific sum is authorized. Money comes from general fund. Maintenance of equipment is included.

*Conference substitute*

House bill without specifying dollar amount.

## 19. STANDBY POWER EFFICIENCY PROGRAM

*House bill*

No provision.

*Senate amendment*

Authorizes funding for a program to improve power stations at FAA sites.

*Conference substitute*

Senate amendment.

## 20. ANCHORAGE AIR TRAFFIC CONTROL FACILITIES

*House bill*

No provision.

*Senate amendment*

Requires a report from FAA on the feasibility of consolidating air traffic control facilities.

*Conference substitute*

Senate amendment.

## 21. AIR TRAFFIC CONTROL COLLEGIATE TRAINING INITIATIVE

*House bill*

No provision.

*Senate amendment*

Authorizes DOT to expend funds on this initiative.

*Conference substitute*

Senate amendment but funded from the FAA's operating account (49 USC 106(k)).

## 22. RESEARCH

*House bill*

No provision.

*Senate amendment*

Authorizes funding for FAA research and development.

*Conference substitute*

Authorizes all research and development activities for the agency within the R&D section of Title 49. The Managers expect these research and development activities to be funded from the FAA's R,E&D account.

## 23. AVIATION SAFETY WORKFORCE INITIATIVE

*House bill*

No provision.

*Senate amendment*

NASA and FAA shall establish a joint program to make grants to students in aviation fields. Such sums are authorized to NASA and FAA to carry out this program. Report required in 180 days.

*Conference substitute*

Senate amendment.

## 24. SCHOLARSHIPS

*House bill*

No provision.

*Senate amendment*

NASA and FAA shall develop a student loan program for those studying in an aviation field. Money is authorized and a report is required.

*Conference substitute*

Established a scholarship and internship program for those studying in an aviation field.

## 25. AIRFIELD PAVEMENT

*House bill*

No provision.

*Senate amendment*

Requires FAA to continue the program of awarding grants to foundations to do research on airfield pavement. But this should not get higher priority than other research programs.

FAA shall review its standards for airfield pavement thickness and revise them if needed to meet the 20-year life requirement for such pavement. Report required in 1 year.

*Conference substitute*

Senate amendment, except Conferees agreed to strike any reference to "rigid concrete" and to amend 47102(3)(H) to make non-hubs eligible for AIP grants for pavement maintenance.

## 26. CERTIFICATION METHODS

*House bill*

No provision.

*Senate amendment*

FAA shall conduct research to develop analytical tools to improve existing certification methods and reduce the cost for certification of new products.

*Conference substitute*

Senate amendment.

## 27. NEW TECHNOLOGIES

*House bill*

No provision.

*Senate amendment*

FAA may conduct a limited pilot program to provide incentives to airlines to use new technologies. \$500,000 is authorized from the general fund in 2004 for this program.

*Conference substitute*

Senate amendment except authorized from Facilities and Equipment.

## 28. FAA CENTER FOR EXCELLENCE

*House bill*

No provision.

*Senate amendment*

FAA shall develop a Center for Excellence focused on research and training on composite materials.

*Conference substitute*

Senate amendment.

## 29. REPORT ON ENVIRONMENTAL IMPROVEMENTS

*House bill*

No provision.

*Senate amendment*

Requires a study on ways to reduce aircraft noise and emissions. Report required in 1 year. \$500,000 is authorized.

*Conference substitute*

Authorizes \$20 million a year for research on enabling technologies to reduce noise and emissions pollution.

## 30. AIRPORT IMPROVEMENT PROGRAM (AIP)

*House bill*

\$3.4 billion in 2004, increasing by \$200 million each of 3 years thereafter. No AIP money for administrative expenses.

*Senate amendment*

\$3.4 billion in 2004, increasing by \$100 million in each of 2 years thereafter. Authorizes use of AIP for administrative expenses.

*Conference substitute*

Senate amendment to the length of the bill however does not authorize use of AIP for administrative expenses. Conferees believe that AIP money should not be used for research, as that should be done in the research account.

## 31. CONTRACT TOWER PROGRAM

*House bill*

Authorizes funding for the contract tower program for 4 years increasing funding by 500,000 each year. Updates the section on the FAA's contract tower program by deleting the 1987 date and increases the maximum Federal share (from \$1.1 million to \$1.5 million) for the construction of a tower under this program.

*Senate amendment*

Same provision with respect to funding but for only 3 years. Allows qualified entities to contract for towers. Same provision with respect to the Federal share.

*Conference substitute*

Senate amendment, but for 4 years.

## 32. UNDERSERVED AIRPORTS

*House bill*

Subsection (b) of section 104 authorizes funding for 5 years at \$35 million per year for the program established in AIR 21 to improve service at underserved airports.

Subsection (b) of section 415 revises this program by eliminating the per-State limit on the number of communities that can participate and by giving priority to those communities that can use the money in the fiscal year that they receive it.

*Senate amendment*

Section 302, subsection (a) authorizes funding for 3 years at \$27.5 million per year for this program. \$275,000 may be used for administrative costs.

Subsection (b) allows communities to participate more than once but not for the same project. Section 354(c) amends section 41734(h) by striking "an airport" and inserting "each airport".

*Conference substitute*

House section 104(b) and Senate section 302(b). House section 415(b) but retain per state limit on a per year basis.

The Conferees continue to be concerned about air service to small and medium sized airports. Section 203 of AIR 21 (114 Stat. 92), codified at section 41743 of title 49, included a pilot program to make grants to small communities to help them bolster their air service. This program is only now beginning to get underway. The Conferees believe this program will lead to the desired air service improvements and the reported bill reauthorizes it for another 5 years at \$35 million per year. In selecting communities for participation in this program, the Conferees encourage the Secretary of Transportation to give preference to airports that have demonstrated the ability to sustain service and that have strong support from the local community.



## 33. REGIONAL JET LOAN GUARANTEES

*House bill*

Reauthorizes the program to permit loan guarantees to be offered for the purchase of regional jets to serve small airports.

*Senate amendment*

No provision.

*Conference substitute*

No provision.

## 34. TRUST FUND GUARANTEE

*House bill*

Reauthorizes for 4 years the procedural protections in AIR 21 that ensure that all Trust Fund revenue and interest is fully spent and that the AIP and F&E programs are fully funded at their authorized levels.

*Senate amendment*

Same provision, worded differently, for 3 years.

*Conference substitute*

House bill.

## 35. DESIGN-BUILD

*House bill*

Continues for another 4 years the provision in existing law permitting contractors to both design and build 7 airport improvement projects.

*Senate amendment*

Makes existing law permanent and removes the 7-airport project limit.

*Conference substitute*

Senate amendment. The Committee understands that other alternative qualifications based methods exist such as job order contracting and construction manager at risk. These alternative qualifications-based methods are acceptable under existing regulations and statute. The term "job order contracting" means an agreement that provides for the purchase of indefinite and limited quantities of construction pursuant to specific work orders issued to the contractor. The term "construction manager at risk" means an agreement that provides for preconstruction services by a contractor during or after design. Section 181 is intended to cover traditional design-build techniques that are not otherwise permitted.

## 36. METROPOLITAN WASHINGTON AIRPORTS AUTHORITY (MWAA)

*House bill*

Reauthorizes MWAA's ability to receive AIP grants until 2007. Section 412(g) repeals the provision requiring this periodic reauthorization.

*Senate amendment*

Requires MWAA, with DOT, to study the feasibility of housing gates of the two air shuttles in one terminal.

*Conference substitute*

House bill, however Conferees agreed not to repeal the provision requiring periodic reauthorization and to require MWAA to seek reauthorization in 2008.

## 37. WAR RISK INSURANCE

*House bill*

Makes permanent war risk insurance for international flights and for non-premium insurance. War risk insurance for domestic flights would continue to be subject to periodic reauthorizations. Permits DOT to keep in effect after August 31, 2004 the war risk insurance policies that must be in effect until that date. Permits DOT to extend the \$100 million cap on liability for third party damages to U.S. aircraft manufacturers until the end of next year. Allows DOT to provide war risk insurance coverage to U.S. aircraft manufacturers and to vendors, agents, and sub-contractors of airlines but only to the extent

that the loss involved aircraft of a U.S. airline. Makes technical corrections.

*Senate amendment*

Reauthorizes the program for 3 years. Allows DOT to provide war risk insurance to a U.S. aircraft manufacturer for loss of an aircraft of a U.S. airline in excess of \$50,000,000 or in excess of manufacturer's primary insurance. Includes conforming amendments.

*Conference substitute*

Conferees agreed to amend Section 44310 to extend the effective date of the program to March 30, 2008. DOT is allowed to provide war risk insurance to a U.S. aircraft manufacturer for loss of an aircraft of a U.S. airline in excess of \$50,000,000 or in excess of manufacturer's primary insurance.

## 38. PILOT PROGRAM FOR INNOVATIVE FINANCING FOR TERMINAL AUTOMATION REPLACEMENT SYSTEMS

*House bill*

Authorizes FAA to conduct a pilot program to test the cost-effectiveness and feasibility of innovative financing techniques to purchase and install terminal automation replacement systems. This proposal is designed to replace existing obsolete air traffic control equipment at FAA TRACONS. This section provides \$200,000,000 in FY 2004 from the Facilities and Equipment Account for this pilot program and allows the FAA to make multi-year advance contract provisions to achieve economic-lot purchases and more efficient production rates.

*Senate amendment*

No provision.

*Conference substitute*

House bill, however the pilot program is not limited to any particular technology or system.

## 39. COST SHARING OF ATC MODERNIZATION PROJECTS

*House bill*

No provision.

*Senate amendment*

DOT may make 10 grants per year for ATC projects that are certified or approved by FAA and that promote safety, efficiency or mobility. The money shall come from the F&E account. It shall be limited to \$5 million per project. The Federal share of the project shall be limited to 33%. The local share shall come from non-Federal sources including PFCs. Facilities and equipment obtained through this program may be transferred to FAA. FAA shall issue guidelines for this program without being subject to the APA.

*Conference substitute*

Senate amendment but limited to the purchase of equipment and software.

## 40. PROJECT STREAMLINING

*House bill*

Provides that the Title may be cited as the "Airport Streamlining Approval Process Act of 2003". Makes a number of findings regarding our Nation's major airports and the environmental review process for airport capacity projects at congested airports.

*Senate amendment*

No provision.

*Conference substitute*

Subtitle renamed "Aviation Development Streamlining." Provides that the Title may be cited as the "Aviation Streamlining Approval Process Act of 2003". Findings are the same as the House bill.

## 41. PROMOTION OF NEW RUNWAYS—AIRPORT CAPACITY PROJECTS

*House bill*

Provides that the Administrator shall take action to encourage the construction of air-

port capacity enhancement projects at congested airports. This is designed to encourage the FAA to take a more proactive approach in encouraging the construction of new runways when it determines that it would be in the national interest.

*Senate amendment*

Section 47701, takes a different approach by requiring the Secretary to identify airports, among FAA's Airport Capacity Benchmark Report 2001, with delays significantly affecting the national system. This section also requires the Secretary to set up a task force and conduct a capacity enhancement study (CES) from which identified airports would be directed to engage in runway expansion processes. Based on the CES, an airport would be required to complete the planning and environmental review process within 5 years after CES, is submitted to DOT. If an identified airport declines to undertake expansion projects, they will be ineligible for planning and other expansion funding and cannot issue passenger facility fees. The Secretary must make every attempt to expedite funding for airports that do comply.

Section 47702, provides for designation of airport development projects as national capacity projects if they will significantly enhance the capacity of the national air transportation system. The designation is effective for 5 years.

*Conference substitute*

Adopted the Senate title "Airport Capacity Enhancement" and the House bill.

## 42. DOT AS LEAD AGENCY

*House bill*

Section 47171, subsection (a) requires the Secretary to develop and implement a coordinated airport project review process for airport capacity enhancement projects at congested airports.

Subsection (b) provides for a coordinated review process for all environmental reviews, analyses, opinions, permits, licenses, and approvals to be conducted concurrently and completed within a time period established by the Secretary in cooperation with the agencies involved.

Subsection (c) requires that for each airport capacity enhancement project at a congested airport, the Secretary shall identify all Federal and state agencies that may have jurisdiction over environmental-related matters, may be required by law to conduct an environment review, or may have jurisdiction to determine whether to issue an environmental-related permit, license, or approval for the project.

Subsection (d) allows a State and its associated agencies, consistent with State law, to choose to participate in the coordinated review process for a project at an airport within that State.

Subsection (e) allows the coordinated review process for a project to be incorporated into a Memorandum of Understanding between the Secretary and the heads of other Federal and State agencies identified in subsection (c), and the airport involved.

Subsection (f) sets forth the notification and reporting requirements should the Secretary determine that a Federal agency, state agency, or airport sponsor participating in the coordinated review process has not met a deadline established under subsection (b).

Subsection (g) provides that for any environmental review process or approval issued or made by a Federal or state agency participating in a coordinated review process requiring an analysis of the purpose and need for a project, the agency is bound by the project's purpose and need as defined by the Secretary.

Subsection (h) provides that the Secretary shall determine the reasonable alternatives

to an airport capacity enhancement project at a congested airport and any other Federal or state agency participating in a coordinated review process shall consider only those alternatives to the project that the Secretary has determined are reasonable.

*Senate amendment*

Section 47703, subsection (a) similarly requires the Secretary to implement an expedited coordinated environmental review process for national capacity projects. Includes a date certain deadline for completing all reviews.

Subsection (b) requires each Federal agency/dept. to accord national capacity project environmental review the highest possible priority & to conduct the review expeditiously. If not complying then the Secretary shall notify Congress immediately.

Subsection (c) requires the designation of a Project Coordinator who shall, among other things, coordinate all activities of Federal, State and local agencies involved in the project.

Subsection (c)(1) requires Secretary to designate a project coordinator & establish an environmental impact team for each national capacity project. Subsection (c)(2) sets forth what the project coordinator and the EIS team shall do.

Adds 180-days extra time and it is not part of the NEPA process. Subsection (a) requires FAA to publish an additional notice in the FR for each airport capacity enhancement project at a congested airport requesting comments on reasonable alternatives. Subsection (b) provides, outside of NEPA, that an alternative shall be considered reasonable if certain listed criteria are met.

Subsection (d), provides that the Secretary's determination, not later than 90-days after last day of comment period, is binding on "all persons, including Federal and State agencies, acting under or applying Federal laws when considering the availability of alternatives to the project."

Subsection (e) states that the section does not apply to alternatives analysis under NEPA and does not apply if an airport opts out in writing. Subsections (a) and (c) require comment periods in addition to NEPA. Subsection (a), as indicated above, requires FAA to publish an additional notice requesting comments on reasonable alternatives.

Subsection (c), requires an additional 60-day comment period.

*Conference substitute*

House bill with Senate Amendment. The Conferees intend that the procedures set forth in this section will allow DOT to cut through red tape and eliminate duplication without diminishing existing environmental laws or limiting local input into these critical projects. Conferees believe that the expedited, coordinated environmental review process will ensure that once a community reaches consensus on a critical project, the review process will not unnecessarily delay action. Conferees designate the Department of Transportation as the lead agency for the project review process, and directs the Secretary of Transportation to develop a coordinated review process for major airport capacity projects that will ensure that all environmental reviews by government agencies will be conducted at the same time, whenever possible.

The Conferees agreed to combine the streamlined environmental review processes and procedures for airport capacity enhancement projects at congested airports, aviation safety projects, and aviation security projects into one section. Therefore, House bill section 47177 is folded into House bill section 47171. The Conferees also adopted the Senate amendment regarding environmental impact statement teams as a way to stream-

line the environmental review process and achieve a coordinated, expedited environmental review. Conferees believe that after proper scoping and public comment processes, the determinations of the Secretary with regard to a proposed project's purpose and need and reasonable alternatives shall be binding on any other Federal or state agency that is participating in a coordinated environmental review process under this section. Participation in a coordinated environmental review process includes the review of environmental analyses, consultation and coordination, and the issuance of environmental opinions, licenses, permits, and approvals.

Conferees recognize that the Department of Transportation and the Federal Aviation Administration have significant expertise and experience on transportation-related matters. Therefore, the Conferees believe that in conducting environmental reviews within the jurisdiction of the DOT, the Secretary should play a lead role in determining which analytical methods are reasonable for use in determining the transportation impacts and benefits of project alternatives, particularly in the area of noise impacts. Other agencies should give substantial deference to the aviation expertise of the Federal Aviation Administration with respect to determinations of relevant aviation factors including aircraft and airport operations, airport capacity, and future national air space capacity forecasts. Other agencies have expertise in determining the environmental impacts of transportation projects, and the Secretary should rely on the expertise of these agencies in analyzing these impacts. The Conferees believe that, to the maximum extent possible, all Federal and State agencies participating in the coordinated review process should use a common set of data for their analyses in carrying out their responsibilities to conduct environmental reviews under Federal law.

43. CATEGORICAL EXCLUSIONS

*House bill*

Section 47172, states that not later than 120 days after the date of enactment of this section, the Secretary shall develop and publish a list of categorical exclusions from the requirement that an environmental assessment or an environment impact statement be prepared for projects at airports.

*Senate amendment*

Requires FAA to report to Senate, within 30 days, on current CATEXs and on proposed additional CATEXs. Directs Secretary to consider other things outside of NEPA, when determining list of proposed CATEXs.

*Conference substitute*

In lieu of either the House bill or Senate amendment, the Conferees agree that the requirement to develop and publish a list of categorical exclusions is unnecessary given that the FAA already published a list of new categorical exclusions as part of their proposed FAA Order 1050.1E, "Environmental Impacts: Policies and Procedures." It would therefore be most helpful if the FAA finalized this Order. The Conferees have set a 180-day deadline for the FAA to publish their final FAA Order 1050.1E. In addition, with regard to airport projects, the Conferees have set a deadline for the FAA to publish, for public comment, the revised FAA Order 5050.413, "Airport Environmental Handbook," and urge the FAA to finalize this Order as soon as practicable.

44. ACCESS RESTRICTIONS TO EASE CONSTRUCTION—AIR TRAFFIC PROCEDURES

*House bill*

Section 47173, provides that at the request of a congested airport, the Secretary may

approve a restriction on use of a runway to be constructed at the airport to minimize potentially significant adverse noise impacts from the runway only if the Secretary determines that the imposition of the restriction (1) is necessary to mitigate significant noise impacts and expedite construction of the runway; (2) is the most appropriate and cost-effective measure to mitigate those impacts, taking into consideration any environmental tradeoffs; and (3) would not adversely affect service to small communities, adversely affect safety or efficiency of the national air-space system, unjustly discriminate against any class of user of the airport, or impose an undue burden on interstate or foreign commerce.

*Senate amendment*

Section 47705 is a similar provision for national capacity projects that involve construction of new runway or reconfiguration of runway. If the Secretary determines consistent with safe and efficient use of air-space, and consistent with applicable Federal law, then commit to such procedure in ROD for project.

*Conference substitute*

Conferees adopted the Senate amendment with minor changes to conform to the use of the term "airport capacity enhancement projects at congested airports" in lieu of the term "national capacity projects."

45. AIRPORT REVENUE TO PAY FOR MITIGATION

*House bill*

Section 47174, subsection (a) states, that the Secretary may allow an airport carrying out a capacity enhancement project at a congested airport to make payments out of revenues generated at the airport for measures to mitigate the environmental impacts of the project if the Secretary finds that (1) the mitigation measures are included as part of, or are consistent with, the preferred alternative for the project in the documentation prepared for NEPA; (2) the use of such revenues will provide a significant incentive for, or remove an impediment to, approval of the project by a State or local government; and (3) the cost of the mitigation measures is reasonable in relation to the mitigation that will be achieved. Subsection (b) describes what the mitigation measures described in Subsection (a) may include.

*Senate amendment*

No provision.

*Conference substitute*

No provision.

46. AIRPORT FUNDING OF FAA STAFF

*House bill*

Section 47175, subsection (a) provides that FAA may accept funds from an airport to hire additional staff or obtain the services of consultants to facilitate the timely processing, review, and completion of environmental documents associated with an airport development project.

Subsection (b) allows the Administrator, with agreement of the airport, to transfer its entitlement funds to the account used by FAA for activities described in subsection (a).

Subsection (c) states that, notwithstanding section 3302 of title 31, any funds accepted under this section, except funds transferred pursuant to subsection (b) shall (1) be credited as offsetting collections to the account that finances the activities and services for which the funds are accepted; (2) be available for expenditure only to pay the costs of activities and services for which the funds are accepted; and (3) remain available until expended.

Subsection (d) provides that no funds may be accepted pursuant to subsection (a), or

transferred under subsection (b), ensures that airport or AIP money is utilized only to provide additional funds for environmental staff, not merely replace funds from the FAA's operating account that would have been provided for this purpose in any event.

*Senate amendment*

Section 47706, similar provision but provides for pilot program and sets up rather complicated process getting much more specific in requirements. Also, does not allow airports to use AIP for this purpose.

*Conference substitute*

House bill and Senate Amendment. Conferees agree that this program should be a permanent program and that airports should be allowed to use AIP entitlement funds to fund environmental staff. However, this provision is designed to ensure that airport or AIP money is utilized only to provide additional funds for environmental staff, and not merely to replace funds in the FAA's operating account that would have been provided for this purpose in any event.

47. AUTHORIZATION

*House bill*

Section 47176, authorizes funds to be appropriated to the Secretary out of the Airport and Airway Trust Fund, in the amount of \$4,200,000 for fiscal year 2004 and for each fiscal year thereafter for the timely processing, review and completion of environmental review activities associated with airport capacity enhancement projects at congested airports

*Senate amendment*

No provision.

*Conference substitute*

House bill.

48. STREAMLINING OF SAFETY AND SECURITY PROJECTS

*House bill*

Section 47177, allows, in subsection (a), the Administrator of the Federal Aviation Administration to designate an aviation safety or aviation security project for priority environmental review. The Administrator is not allowed to delegate this designation authority.

Subsection (b) directs the Administrator to establish guidelines for the designation of an aviation safety or aviation security project for priority environmental review. The guidelines must include consideration of, (1) the importance or urgency of the project; (2) the potential for undertaking the environmental review under existing emergency procedures under the National Environmental Policy Act; (3) the need for cooperation and concurrent reviews by other Federal or State agencies; and (4) the prospect for undue delay if the project is not designated for priority review.

Subsection (c) sets forth the procedures for coordinated environmental reviews. Paragraph (1) directs the Administrator, in consultation with the heads of affected agencies, to establish specific timelines for coordinated environmental reviews of an aviation safety or aviation security projects. The timelines shall be consistent with timelines established in existing laws and regulations. Also, this subsection directs each Federal agency with responsibility for project environmental reviews, analyses, opinions, permits, licenses, and approvals to accord any such review a high priority and to conduct the review expeditiously and, to the maximum extent possible, concurrently with other such reviews. Paragraph (2) directs each Federal agency identified under subsection (c) to formulate and implement administrative, policy, and procedural mechanisms to enable the agency to ensure com-

pletion of environmental reviews, in a timely and environmentally responsible manner.

Subsection (d) provides for State participation. Paragraph (1) states that if a priority environmental review process is being implemented with respect to a project within the boundaries of a State with State environmental requirements and approvals, the Administrator must invite the State to participate in the process. Paragraph (2) allows that a State invited to participate in a priority environmental review process, consistent with State law, may choose to participate and may direct that all State agencies, which have jurisdiction to conduct an environmental review or analysis of the project, be subject to the coordinated review process.

Subsection (e) sets forth the procedures for when a Federal agency or participating State fail to give priority, review. Paragraph (1) provides that if the Secretary of Transportation determines that a Federal agency or a participating State is not complying with the requirements of this section and that the noncompliance is undermining the environmental review process, the Secretary must notify, within 30 days the head of the Federal agency or, with respect to a State agency, the Governor of the State. Paragraph (2) states that when a Federal agency receives such a notification, the Agency must submit a written report to the Secretary within 30 days explaining the reasons for the situation described in the notification and what remedial actions the agency intends to take. Paragraph (3) states that if the Secretary determines that a Federal agency has not satisfactorily addressed the problems within a reasonable period of time allowed under this subsection, the Secretary shall notify the Council on Environmental Quality, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science and Transportation of the Senate.

Subparagraph (f) cross-references the procedures set forth in subsections (c), (e), (g), (h), and (i) of section 47171 and directs that they shall apply with respect to an aviation safety or aviation security project under this section in the same manner and to the same extent as such procedures apply to an airport capacity enhancement project at a congested airport under section 47171.

Subsection (g) provides a list of definitions of terms used in the section. Section 47178, provides a list of definitions of terms used in the subchapter, including terms "congested airport" and "Airport Capacity Enhancement Project."

*Senate amendment*

Section 47707, provides definition of National Capacity Project.

*Conference substitute*

House bill. Conferees combined House bill section 47177, which includes the procedures for an expedited, coordinated environmental review process for aviation safety and aviation security projects, with House bill section 47171, the procedures for airport capacity enhancement projects at congested airports. The Conferees believe that environmental reviews for these types of projects should be streamlined in the same way that airport capacity enhancement projects at congested airports are streamlined. Therefore, all processes and procedures applicable to airport capacity enhancement projects at congested airports apply to designated aviation safety or aviation security projects. Conferees adopted the House bill definitions of terms in both Sections 47177(g) and 47178.

49. GOVERNOR'S CERTIFICATE

*House bill*

Repeals the requirement in section 47106(c)(1)(B) that the Governor of the state

in which the project is located certifies in writing to the Secretary that there is reasonable assurance that the project will be in compliance with applicable air and water quality standards.

*Senate amendment*

Same as House bill except the Senate strikes "(1)(c)" in newly designated 47106(c)(4) and inserts "(1)(B)", and does not strike "Stage 2" and insert "Stage 3" in 7106(c)(2)(A).

*Conference substitute*

Senate amendment with minor technical changes to reflect revisions contained in House bill. Conference substitute repeals the governor's certificate requirement regarding compliance with applicable air and water quality standards.

50. NOISE MITIGATION NEAR A CONGESTED AIRPORT

*House bill*

Authorizes the issuance of a grant to an airport operator of a congested airport and a unit of local government to carry out a project to mitigate noise in the area surrounding the airport if the project is included as a commitment in a record of decision of the FAA for an airport capacity enhancement project.

*Senate amendment*

No provision.

*Conference substitute*

House bill.

51. STREAMLINING LIMITATIONS AND RELATIONSHIP TO OTHER REQUIREMENTS

*House bill*

Section 207 states that nothing in the Act shall preempt or interfere with any practice of seeking public comment; any power, jurisdiction, or authority that a state agency or an airport sponsor has with respect to carrying out an airport capacity enhancement project; and any obligation under the National Environmental Policy Act and Council on Environmental Quality regulations.

Section 208 provides that the coordinated review process required under this Title for airport capacity enhancement projects at congested airports shall apply whether or not the project is a high-priority transportation infrastructure project under Executive Order 13274.

*Senate amendment*

No provision.

*Conference substitute*

House bill.

52. ILLINOIS

*House bill*

No provision.

*Senate amendment*

Makes clear that nothing in Title II of the Senate amendment precludes the application of this Act to Illinois or preempts the Illinois Governor from approving or disapproving an airport project.

*Conference substitute*

Senate amendment.

53. MANAGEMENT ADVISORY COMMITTEE MEMBERS

*House bill*

This section reduces the FAA's Management Advisory Council (MAC) to 13 members to reflect the removal the Air Traffic Services Subcommittee from the MAC. The DOT Secretary rather than the President would fill any remaining vacancies in the MAC.

*Senate amendment*

Similar provision.

*Conference substitute*

House bill, but name changed to Management Advisory Committee.

## 54. REORGANIZATION OF THE AIR TRAFFIC SERVICES SUBCOMMITTEE

*House bill*

Establishes the Air Traffic Services Board and moves the members of the Air Traffic Services Subcommittee to this new Board. The FAA Administrator would be the Chairman of this Board. Members are appointed by the President and confirmed by the Senate. Compensation of the Board Members is eliminated. Board makes recommendations on the FAA budget rather than approve it.

*Senate amendment*

Similar provision but it is called a Committee rather than a Board and members are appointed by the Secretary. Retains \$25,000 compensation for members. Continues to require approval of FAA budget. Requires President to submit FAA budget request to Congress without revision.

*Conference substitute*

House bill and Senate amendment, but without the provision on the budget. The new organization is a committee.

## 55. CLARIFICATION OF THE RESPONSIBILITIES OF THE CHIEF OPERATING OFFICER

*House bill*

Revises the functions of the FAA's Chief Operating Officer (COO) to more closely reflect the duties of such a position. The current statutory functions have been criticized for being more appropriate for a CEO than a COO. The COO is given the added responsibility of developing a comprehensive plan with specific performance goals for managing cost-reimbursable contracts as called for in the report of the Inspector General (Report F1-2202-092, May 8, 2002).

*Senate amendment*

Similar, except there is no provision on cost-reimbursable contracts.

*Conference substitute*

House bill.

## 56. SECTION WHISTLEBLOWER PROTECTION

*House bill*

No provision.

*Senate amendment*

Provides whistleblower protection for employees of FAA contractors.

*Conference substitute*

Senate amendment.

## 57. SMALL BUSINESS OMBUDSMAN

*House bill*

This section establishes the position of small business ombudsman within FAA to serve as a liaison with small business and provide assistance to those businesses.

*Senate amendment*

No provision.

*Conference substitute*

No provision.

## 58. FAA PURCHASE CARDS

*House bill*

This section requires FAA to take appropriate actions to implement General Accounting Office recommendations made in a report (GAO-03-405, March 2003) that uncovered abuses of FAA purchase cards. Similar concerns had been raised earlier about practices in Alaska (GAO-02-606, May 2002).

*Senate amendment*

No provision.

*Conference substitute*

House bill.

## 59. IMPROVEMENT OF AVIATION INFORMATION COLLECTION

*House bill*

This section would repeal the prohibition on collecting information by specific flight

effective on the date of issuance of a final rule that reduces the reporting burden for air carriers through electronic filing of the Origin & Destination Survey data.

*Senate amendment*

No provision.

*Conference substitute*

House provision with additional language to ensure that data cannot be used for anti-competitive purposes. The additional language requires that, if the Secretary requires air carriers to provide flight-specific information, (1) the Secretary shall not disseminate fare information for a specific flight to the general public for a period of at least nine months following the date of the flight; and (2) shall give due consideration to and address confidentiality concerns of carriers, including competitive implications, in any rulemaking prior to adoption of a rule requiring the dissemination to the general public of any flight-specific fare.

## 60. DATA ON INCIDENTS AND COMPLAINTS INVOLVING PASSENGER AND BAGGAGE SECURITY SCREENING

*House bill*

This section requires DOT to publish passenger complaints about screening problems in the same way that it publishes complaints about delays, lost baggage, etc.

*Senate amendment*

No provision.

*Conference substitute*

House bill.

## 61. DEFINITIONS

*House bill*

This section places the various definitions of "hub" in one place in Title 49 rather than scattered throughout the code as they are now. This section includes the various hub definitions in Chapter 471 of title 49. Also defines "amount made available" and "passenger boardings".

*Senate amendment*

Adds definitions of "amount newly made available" and "amount subject to apportionment" in chapter 471. Makes necessary conforming changes. Subsection (b) revises when AIP grants may be made.

*Conference substitute*

House bill and Senate amendment.

## 62. CLARIFICATIONS TO PROCUREMENT AUTHORITY

*House bill*

Subsection (a) deletes paragraph (c)(1) and (c)(2)(D) that no longer apply to the FAA as a result of the procurement reform contained in section 40110(d) of title 49.

Subsection (b) deletes the reference to the deadline for implementing procurement reform and allows bid protests to be resolved by alternate dispute resolution techniques. Subsection (c) adds the procurement of "services" to the list of actions to which the FAA's procurement system applies.

*Senate amendment*

Subsection (a) is the same provision but it also deletes paragraphs (2)(C) and (E) that require authorization from GSA and limit sole source contracts.

Also deletes the reference to the deadline for implementing procurement reform.

Subsection (b) is the same as subsection (c) of the House bill.

*Conference substitute*

House bill and Senate amendment with additional language at the end of new paragraph (d)(4) stating "and shall be subject to judicial review under section 46110 of this title, and to the provisions of the Equal Access to Justice Act (5 U.S.C. 504)."

## 63. LOW-EMISSION AIRPORT VEHICLES AND GROUND SUPPORT EQUIPMENT UNDER THE PFC PROGRAM

*House bill*

Subsection (a) allows passenger facility charge (PFC) revenue to be used to purchase low-emission vehicles or to convert existing equipment.

Subsection (b) makes clear that PFC revenue can be used only to pay the difference in cost between the low-emission vehicle and a regular vehicle. PFCs can also be used to pay the cost of converting an existing vehicle to a low emission vehicle.

Subsection (c) defines the type of equipment that is eligible.

*Senate amendment*

Similar provision, but adds requirement that DOT, in consultation with EPA, shall issue guidance.

*Conference substitute*

Conferees adopted a blended version of the House bill and Senate amendment. The Conferees adopted the House provision with the Senate requirement that the EPA, in consultation with DOT, shall issue guidance.

## 64. STREAMLINING OF THE PASSENGER FACILITY FEE PROGRAM

*House bill*

Subsection (a) is designed to streamline the PFC approval process by requiring that notice and comment is provided before the airport submits its PFC application to FAA and all the certifications are included in that application. The subsection also states that an airport is required to consult with only those airlines operating there that provide scheduled air service or major charter operations.

Subsection (b) provides a 3-year test of expedited procedures for approval of PFC applications at small airports. Such an airport that notifies FAA of its intention to impose a PFC shall be allowed to do so unless FAA objects within 30 days of receiving the notice.

*Senate amendment*

This is the same provision with some different wording. Also eliminates the requirement that large airports seeking a PFC of more than \$3 show that the project will make a significant contribution to safety, security, increased competition, or reducing congestion or noise.

*Conference substitute*

House bill.

## 65. PFCS AND MILITARY CHARTERS

*House bill*

Makes clear that passengers on a military charter are not required to pay a PFC since payment for the flight is made by the Department of Defense rather than by the individual passengers.

Makes technical amendments.

*Senate amendment*

Subsection (g) of section 507 is the same provision.

*Conference substitute*

Both House bill and Senate amendment.

## 66. USING PFC REVENUE FOR GROUND ACCESS PROJECTS

*House bill*

Requires FAA to publish in 60 days its current policy for allowing PFCs to be used to pay for ground access projects.

*Senate amendment*

No provision.

*Conference substitute*

House bill but add "consistent with current law."

## 67. FINANCIAL MANAGEMENT OF PASSENGER FACILITY FEES

*House bill*

This section requires airlines to place PFC revenue that they collect in a separate account so that the airport for which the PFC was collected will be assured of receiving its money should the airline go out of business during the interim period between the time that the PFC was collected and the time it is remitted to the airport.

*Senate amendment*

No provision.

*Conference substitute*

House bill, but limited to air carriers filing for bankruptcy after the date of enactment. These air carriers would only have to segregate PFC money, and would not be required to put that money in an escrow account.

## 68. MAJOR RUNWAY PROJECTS

*House bill*

No provision.

*Senate amendment*

Requires quarterly reports on the status of major runway projects undertaken at 40 largest airports.

*Conference substitute*

No provision.

## 69. NOISE DISCLOSURE TO HOME BUYERS

*House bill*

No provision.

*Senate amendment*

Requires FAA to study the feasibility of developing a program to notify homebuyers of information on noise disclosure maps. Requires FAA to make noise exposure maps available on its web site.

*Conference substitute*

Senate amendment. Conferees made one change by requiring the Federal Aviation Administration to make noise exposure and land use information from noise exposure maps available to the public via the Internet on its website in an appropriate format. The approach was adopted instead of requiring the FAA to publish noise exposure maps on the FAA's web site alone. Conferees believe that it is very important that potential homebuyers should be notified of the likelihood that they would be exposed to aircraft noise.

## 70. CLARIFICATION OF FLY AMERICA ACT

*House bill*

Makes clear that the term "commercial item" does not include the transportation of people by air. Such transportation must be on U.S. airlines to the extent required by the other provisions of 49 U.S.C. 40118.

Makes clear that a person that has contracted with the military has the same obligation under 49 U.S.C. 41106 to employ U.S. airlines for airlift services as the military.

*Senate amendment*

No provision.

*Conference substitute*

Conferees adopted the House provision that the term "commercial item" does not include the transportation of people by air. Such transportation must be on U.S. airlines to the extent required by the other provisions of 49 U.S.C. 40118.

## 71. AIRLINE CITIZENSHIP

*House bill*

No provision.

*Senate amendment*

To qualify as a U.S. airline, it must be under the actual control of citizens of the U.S.

*Conference substitute*

Senate amendment.

## 72. AIR CARGO IN ALASKA

*House bill*

No provision.

*Senate amendment*

Permits cargo to or from a foreign country to be transferred to another airline in Alaska without being considered to have broken its international journey.

*Conference substitute*

Senate amendment. This subsection does not apply to transportation of passengers and does not permit the Secretary to authorize a foreign air carrier either to take on for compensation at a place in the United States cargo having both first origin and ultimate destination in the United States, or to engage in service that contravenes any bilateral or multilateral agreement between the United States and any foreign state. Alaska's geographic location and distance from the contiguous 48 states creates special needs, challenges and opportunities. Alaska has a unique geographic location as a technical and refueling stop for all cargo services between Asia, on the one hand, and Europe and North America on the other. A "term arrangement" is a cargo relationship between air carrier(s) and foreign air carrier(s) on an ongoing basis, including, for example, preferential rates or joint marketing up to and including a full cargo alliance.

## 73. OVERFLIGHTS OF NATIONAL PARKS

*House bill*

States that the requirements and restrictions governing commercial air tour operations, as defined in the Air Tour Management Act of 2000, of national parks apply only to those flights that are over the park, or over an area within ½ mile outside the boundary of a national park, and not to those flights that may be near the park, even if they have some impact on the park.

Overrules an FAA regulation that establishes specific times that are considered daylight hours and instead uses the more common approach of defining daylight as the hours between 1 hour after sunrise and 1 hour before sunset.

*Senate amendment*

No provision.

*Conference substitute*

House bill, subsection (a) regarding the application of the Air Tour Management Act of 2000 only. The Conferees also agreed to add a provision regarding the utilization of quiet technology at Grand Canyon National Park and established a mediation process if necessary.

Conferees are greatly disappointed with the lack of progress that has been made by the National Park Service (NPS) and the Federal Aviation Administration (FAA) with regard to managing air tour noise impacts in national parks. It is our understanding that the two agencies have not been able to reach agreement on how to set noise standards for national parks, how to measure and model noise impacts in national parks, and how to appropriately regulate air tours over national parks.

Conferees point out that in no less than eight places in the Air Tour Management Act of 2000 (ATMA), Congress used the words "in cooperation" to describe how the FAA and NPS should work together to develop air tour management plans (ATMPs) for national parks. Congress' intent is clear. The agencies should work collaboratively, cooperatively and in coordination with one another. Neither is in the position to dictate an approach. Conferees expect the two agencies to come to an agreement on a common approach to develop ATMP's, as well as to determine environmental impacts in national

parks, including noise impacts. The approach and procedures should be developed expeditiously and in a coordinated and collaborative fashion.

Finally, it is our understanding that the National Park Service has not sought funding authorization or appropriation for the ATMP process. Conferees believe that both agencies should be funding this effort.

## 74. DELAY REDUCTION MEETINGS

*House bill*

No provision.

*Senate amendment*

DOT may ask U.S. airlines to meet with FAA to discuss flight reductions at severely congested airports to reduce over scheduling and flight delays during peak hours if FAA and DOT determine it is necessary. Meetings shall be chaired by FAA, open to all scheduled U.S. airlines, and limited to the airports and time period determined by FAA. FAA shall set flight reduction targets for the meeting. Airlines shall make flight reduction offers to FAA rather than to other airlines. Transcripts of the meetings shall be made available. Includes an additional provision dealing with delays caused by stormy weather.

*Conference substitute*

Senate amendment without the "Stormy Weather" provisions which are covered by the collaborative decision making pilot program described below.

## 75. COLLABORATIVE DECISION MAKING PILOT PROGRAM

*House bill*

Requires a pilot program to be established within 90 days that would authorize airlines to discuss changes in flight schedules in the event of a capacity reduction event.

States that the pilot program will last for 2 years after it is established.

Subsection (c) directs FAA to issue guidelines for the program that, at least, define when a capacity reduction event exists that would warrant the use of collaborative decision making among airlines.

States that when the FAA determines that a capacity reduction event exists at an airport, it may permit airlines to meet and discuss their schedules for up to 24 hours in order to use the available air traffic capacity most effectively. The FAA shall monitor these discussions.

Directs the FAA to choose three airports to participate in the program within 30 days after establishing the program. The airports chosen should be those with the most delays where collaborative decision-making could help reduce delays there and throughout the nation.

States which airlines are eligible to participate.

Permits the FAA to modify or cancel the program or prevent an airline from participating if it finds that the purposes of the program are not being furthered or there is an adverse impact on competition.

Requires FAA and DOT to evaluate the impact of the pilot program on the use of air traffic capacity, competition, the amount of air service to communities, and the impact of delays at other airports. Subsection (i) allows the program to be extended for an additional two years and expanded to seven more airports if warranted by the evaluation in subsection (h).

*Senate amendment*

Requires a program to be established to authorize airlines to discuss changes in schedules in the event of bad weather.

Within 30 days of enactment, DOT shall establish procedures governing airline requests for authorization, participation by DOT, and the determination by FAA about the impact of bad weather.

When FAA determines that bad weather is likely to adversely and directly affect capacity at an airport for at least 3 hours, airlines may discuss flights directly affected by the bad weather for up to 24 hours. DOT shall be represented at the meetings.

Allows DOT to exempt airlines from the antitrust laws in order to participate in the discussions.

This provision expires 2 years and 45 days after enactment but may be extended for another 2 years. DOT shall notify Congress of any such extension.

#### *Conference substitute*

House bill but reduced the number of initial participating airports from 3 to 2. Conferees also included requirements that the Attorney General concur with certain actions and determinations of the Secretary of DOT. Conferees also provided that the Attorney General may monitor the communications between air carriers operating at a participating airport. Also included antitrust immunity. Conferees directed the Administrator of the FAA to define and establish limited criteria for a "capacity reduction event". Conferees expect the FAA to work closely with the Department of Justice and the Department of Transportation.

#### 76. COMPETITION AND ACCESS

##### *House bill*

No provision.

##### *Senate amendment*

Directs DOT to study and report within 6 months on competition, access problems, gate usage, pricing and availability at large airports.

##### *Conference substitute*

No provision.

#### 77. COMPETITION DISCLOSURE

##### *House bill*

No provision.

##### *Senate amendment*

Requires large airports to file a report with DOT within 30 days of denying an airline a gate or other facilities. Report shall provide reason for the denial and time frame for granting the request.

##### *Conference substitute*

Instead of requiring a report from an airport each time it is unable to accommodate an airline request for gates, the conference substitute requires an airport to file a report with DOT during each 6 month period that it was unable to accommodate a request for gates. The airport could aggregate several incidents into one report. This provision sunsets in 5 years.

#### 78. AVAILABILITY OF AIRCRAFT ACCIDENT SITE INFORMATION

##### *House bill*

This section adds two provisions to the family assistance plans that airlines are required to follow in the event of a plane crash. The first requires information to homeowners whose houses are damaged about liability and compensation. Typically, this information should direct homeowners to their insurance companies to obtain information on compensation for damages. The second requires the airline to provide closed circuit television or a similar method for families to view NTSB proceedings concerning the accident. This would apply only if the NTSB proceedings were more than 80 miles from the accident site. In such cases, the proceedings would have to be able to be viewed in the cities where the flight originated and where it was scheduled to land. This applies only to cities in the United States.

##### *Senate amendment*

No provision.

#### *Conference substitute*

##### *House bill.*

#### 79. SLOT EXEMPTIONS AT RONALD REAGAN WASHINGTON NATIONAL AIRPORT

##### *House bill*

Increases the number of slot exemptions to be granted outside the 1,250-mile perimeter from 12 to 24. Increases the number of slot exemptions to be granted inside the perimeter from 12 to 20.

Accommodates the above additional exemptions by increasing the number that can be granted during each one-hour period from 2 to 3. It also distributes the 20 inside-the-perimeter exemptions as follows—6 for air service from Reagan National to small airports without regard to the new entrant criteria, 10 to medium size or smaller airports, and 4 to any airport. Directs DOT to establish procedures for the grant of these slot exemptions.

##### *Senate amendment*

No provision.

##### *Conference substitute*

House bill. In order to enhance competition, DOT is encouraged to, among others, consider the competitive importance of service to cities that can serve as gateways to additional western states that currently have only limited service to Reagan National Airport. This language is not intended to favor or prejudice an application from a carrier under this section.

#### 80. PERIMETER RULES

##### *House bill*

Requires DOT to study the impact of locally imposed perimeter rules on competition and air service to communities outside that perimeter.

##### *Senate amendment*

No provision.

##### *Conference substitute*

No provision.

#### 81. COMMUTER AIRCRAFT DEFINITION

##### *House bill*

Changes the definition of commuter to allow up to 76 seat regional jets to use commuter slots at Reagan National Airport.

##### *Senate amendment*

No provision.

##### *Conference substitute*

House bill.

#### 82. NOTICE CONCERNING AIRCRAFT ASSEMBLY WHERE AN AIRCRAFT IS ASSEMBLED

##### *House bill*

This section requires, within 1 year, U.S. airlines to include on the placard in the seat back pocket a notice informing the passenger of where the aircraft was built.

##### *Senate amendment*

No provision.

##### *Conference substitute*

House bill, but airlines have 18 months to include on the placard in the seat back pocket a notice informing the passenger of where the aircraft was finally assembled.

#### 83. SPECIAL RULE TO PROMOTE AIR SERVICE TO SMALL COMMUNITIES

##### *House bill*

In order to promote air service to small communities, this section directs FAA to permit small turbine powered or multi-engine aircraft to carry passengers between a small airport and another airport and to accept payment from those passengers if the aircraft is otherwise operated in accordance with FAA rules in Parts 119 and 135 and DOT rules in Part 298 of 14 CFR.

##### *Senate amendment*

No provision.

#### *Conference substitute*

No provision.

#### 84. ESSENTIAL AIR SERVICE (EAS) MARKETING

##### *House bill*

Allows the portion of the essential air service (EAS) subsidy paid to an airline to promote its service to be paid to the community instead so that the community can promote that service.

##### *Senate amendment*

Airports may receive up to \$50,000 for a marketing plan to increase usage at an EAS community. A local share, not including federal sources but including bond proceeds or in-kind contributions, is required unless passenger usage increases by a specified amount. Authorizes \$50,000 to a State with an EAS community to assist the State in developing methods to increase passengers at the community. A 10% local share, including in-kind contributions, is required.

\$12 million per year for 3 years is authorized for this program of which \$200,000 may be used for administrative costs.

##### *Conference substitute*

Senate amendment.

#### 85. EAS SUBSIDY ADJUSTMENT

##### *House bill*

Allows adjustments to a carrier's subsidy rate at any time if average monthly costs have increased by 10% or more without regard to requirements relating to renegotiation or termination notice.

##### *Senate amendment*

Allows adjustments to a carrier's subsidy rate within 30 days of enactment if average annual unit costs have increased by 10% or more without regard to renegotiation requirements.

##### *Conference substitute*

House bill section 415 (a)(3), but does not go into effect until 30 days after enactment. Senate amendment definition of "significantly increased costs," with revisions to clarify calculation. Conferees agreed to a new provision authorizing the Secretary to reverse the upward adjustment in the subsidy rate if costs subsequently decline. It is the Managers' intent that the authority provided in this section be used to cover an industry-wide cost increase, such as increased fuel or insurance costs, and not one unique to a particular carrier.

#### 86. RETURNED EAS FUNDS

##### *House bill*

No provision.

##### *Senate amendment*

Any EAS subsidy returned to DOT by an airport shall remain available to DOT and used to increase flights to that airport.

##### *Conference substitute*

No provision.

#### 87. EAS AUTHORIZATION

##### *House bill*

Authorizes \$65 million, in addition to the \$50 million already required to be provided, for the EAS program and for the alternative program established by subsection (f) below. It also authorizes the hiring of additional employees in DOT to manage the program.

##### *Senate amendment*

Authorizes \$113 million including the \$50 million already required.

##### *Conference substitute*

House bill, with additional authorization for marketing from Senate bill.

#### 88. SUBSIDY TERMINATION

##### *House bill*

Requires DOT to give a community 90 days notice before it discontinues subsidies to a



community as a result of that community's failure to meet mileage or per passenger subsidy targets established in Appropriations Acts.

*Senate amendment*

Notwithstanding the subsidy per passenger limitation in the 2000 appropriations act, DOT may not terminate a subsidy to a community before the end of 2004, if 2000 ridership at the community was sufficient and it received notice in 2003 that its ridership is no longer sufficient.

*Conference substitute*

No provision.

89. RESUMING SERVICE AT FORMER EAS COMMUNITIES

*House bill*

Allows an airline to begin service after the date of enactment to a community that has been eliminated from the EAS program without being subject to the hold-in requirements of that program if it should decide to terminate service to that community.

*Senate amendment*

No provision.

*Conference substitute*

House bill. The purpose of this provision is to remove a requirement that might prove to be a disincentive to a carrier resuming service to a community without any service.

90. JOINT FARES

*House bill*

Directs DOT to encourage the submission of joint fare proposals to benefit service to small communities.

*Senate amendment*

No provision.

*Conference substitute*

House bill.

91. ALTERNATIVE EAS

*House bill*

Establishes an alternative to the EAS program. Under this alternative, rather than receiving service from an airline subsidized by DOT, the community could receive a grant from DOT to establish and pay for its own service. This could include scheduled air service, air taxi service, fractional ownership where passengers pay for the service, surface transportation, or some other approach approved by DOT. Communities choosing to participate in this alternative program could not receive service under the established EAS program in the fiscal year in which they participated in the alternate program.

*Senate amendment*

If money authorized for the marketing program is fully appropriated, DOT shall establish a pilot program for no more than 10 communities under which the airport may forgo EAS subsidies for 10 years in exchange for a grant of double the EAS subsidy for airport development. DOT may require major airlines serving one of these 10 communities to participate in multiple code shares if that would improve air service.

DOT shall establish a pilot program for no more than 10 communities to authorize more flights with smaller aircraft if safety will not be compromised. For 3 of these airports, DOT may establish a pilot program where the subsidy pays for alternate transportation and improvement to airport facilities if the airport agrees to terminate its participation in this program pilot program after 1 year.

DOT may establish a pilot program where airports share the cost of providing service over and above the required essential air service.

*Conference substitute*

Substitute is House section 415 (g), with alternatives and pilot programs in the Senate

bill. The fractional ownership provision cannot be used until the FAA rule on fractional ownership takes effect.

92. TRACKING EAS SERVICE CHANGES

*House bill*

No provision.

*Senate amendment*

Requires semi-annual report from airlines providing EAS on on-time performance and other service changes.

*Conference substitute*

Senate amendment with revisions.

93. MILEAGE REQUIREMENTS FOR EAS PROGRAM

*House bill*

Establishes mileage requirements for participation in the EAS program and directs DOT to calculate the mileage by the most commonly used route. DOT should consult with the Governor in determining the most commonly used route. Any community previously eliminated from the EAS program by the distance criteria may appeal that decision to DOT in light of the changes made by this subsection.

*Senate amendment*

Similar provision but the method for determining mileage applies only to Lancaster, PA while the appeal rights apply to any community.

*Conference substitute*

House bill but limited to only 2 years prior to date of enactment and order to be issued is limited to 2007.

94. SMALL COMMUNITY OMBUDSMAN

*House bill*

No provision.

*Senate amendment*

Establishes ombudsman in DOT to develop strategies for improving air service to small communities.

*Conference substitute*

No provision.

95. NATIONAL COMMISSION ON SMALL COMMUNITY AIR SERVICE

*House bill*

No provision.

*Senate amendment*

Establishes 9-member Commission to study challenges facing small communities and whether existing Federal programs are helping.

*Conference substitute*

Senate amendment.

96. REFUNDED SECURITY FEES

*House bill*

No provision.

*Senate amendment*

Requires flag airlines, within 30 days, to remit to their code share partners any security fees that they paid but that were refunded to the flag airline. IG reviews compliance. Airline CEO certifies compliance.

*Conference substitute*

No provision.

97. TYPE CERTIFICATES

*House bill*

Requires anyone building a new aircraft based on a type certificate to have the permission of the holder of that type certificate.

*Senate amendment*

No provision.

*Conference substitute*

House bill.

98. CERTIFICATION OF FOREIGN AVIATION PRODUCTS

*House bill*

Requires the FAA to spend the same amount of time and perform a similarly

thorough review when certifying or validating a foreign aviation product as the foreign nation spends in certifying or validating U.S. aviation products.

*Senate amendment*

No provision.

*Conference substitute*

The House bill is revised to direct U.S. negotiators to ensure that American products are treated fairly in the certification process.

99. INTERNATIONAL ROLE OF FAA

*House bill*

No provision.

*Senate amendment*

Amends section 40101 (d) by requiring FAA to exercise leadership with foreign counterparts, in ICAO, and other organizations to promote safety, efficiency, and environmental improvements in air travel.

*Conference substitute*

Senate amendment.

100. REPORT ON OTHER NATION'S ADVANCEMENTS

*House bill*

No provision.

*Senate amendment*

FAA shall review other countries aviation safety, research funding, and technological actions and report with recommendations on how those activities might be used in the U.S.

*Conference substitute*

No provision, however the report requirement in the Senate amendment is included in section 819 of the bill.

101. DESIGN ORGANIZATION CERTIFICATES

*House bill*

This section directs FAA to develop, within 4 years, a plan for certification of design organizations and allows the FAA to implement within 7 years a system for certifying design organizations if it so chooses.

*Senate amendment*

Similar provision but plan is to be submitted in 3 years and implemented in 5 years. Nothing in this section prevents FAA from revoking a certificate. Makes conforming change to subsection on type certificates.

*Conference substitute*

House timelines with Senate provision on FAA authority to revoke certificates. Replace (f)(3) of House bill with "The FAA may rely on certifications of compliance by a Design Organization when making a finding under section (a)."

102. COUNTERFEIT OR FRAUDULENTLY REPRESENTED PARTS VIOLATIONS

*House bill*

This section would direct the FAA to deny a certificate to a person whose certificate was previously revoked for involvement in an activity relating to counterfeit or fraudulent aviation parts.

*Senate amendment*

Same provision, but would also deny a certificate to a person who carried out an activity related to counterfeit or fraudulent aviation parts for which he could have been convicted.

*Conference substitute*

House bill.

103. RUNWAY SAFETY AREAS

*House bill*

Section 419 states that an airport shall not be required to reduce the length of a runway or declare the length of the runway to be less than the actual pavement length in order to meet FAA requirements for runway safety areas.

Section 505 requires airports to undertake, to the maximum extent practical, improvements to the runway safety overrun area to meet FAA standards when they receive grants to construct, reconstruct, repair, or improve that runway. This does not require that airport to build a shorter runway, reduce the length of that runway or similar actions that are prohibited by section 419 of this bill.

*Senate amendment*

No provision.

*Conference substitute*

House bill. The Conferees agreed to limit this provision to airports located in the State of Alaska, as that is apparently where the FAA's actions with regard to runway safety areas has become a problem. The Conferees also agreed to require the DOT to conduct a study and submit a report on this issue for airports located in the remaining states.

104. AVAILABILITY OF MAINTENANCE INFORMATION

*House bill*

Requires manufacturers of aircraft and aircraft parts to provide maintenance manuals at a reasonable cost to repair stations that are authorized to work on those aircraft or aircraft parts.

*Senate amendment*

No provision.

*Conference substitute*

No provision.

105. CERTIFICATE ACTIONS IN RESPONSE TO A SECURITY THREAT

*House bill*

Requires FAA to revoke a pilot's certificate if the Department of Homeland Security notifies the FAA that the pilot is a security risk.

Gives a pilot who is a U.S. citizen the right to a hearing before an administrative law judge (ALJ). Others have the right to the appeal procedures that the Transportation Security Administration (TSA) has already provided for them.

States that the ALJ is not bound by the FAA's or TSA's findings of fact or law.

Allows either party to appeal an ALJ decision to a special panel created by the Transportation Security Oversight Board.

Allows either party to appeal the panel's decision to the U.S. Court of Appeals. Requires TSA to give a person appealing under this section an explanation of the reason for the revocation and all supporting documents to the extent that national security permits.

Sets forth the procedures for handling classified evidence. This section makes clear that appeals under Subtitle VII of title 49 are handled by the Federal Court of Appeals rather than the District Court.

Contains a conforming amendment.

*Senate amendment*

No provision.

*Conference substitute*

House bill with technical clarifications to address how FAA, TSA, DHS, CIA, and the parties shall handle classified information in the hearing and appeal processes.

106. JUDICIAL REVIEW

*House bill*

Amends 46110(a) by striking "part" and inserting "subtitle" in the first sentence. Judicial review of TSA actions is covered by section 1710 of H.R. 2144.

*Senate amendment*

References 46110(c) instead of 46110(a). Uses Administration's proposed language, including sections for TSA.

*Conference substitute*

Conferees agreed to amend section 46110(a) of Title 49, United States Code to clarify

that the judicial review procedures set forth in section 46110 apply to persons disclosing a substantial interest in orders issued by the Secretary of Transportation in whole or in part under part A and under part B of Subtitle VII of Chapter 49 of the U.S. Code. The intent is to clarify that decisions to take actions authorizing airport development projects are reviewable in the circuit courts of appeals under section 46110, notwithstanding the nature of the petitioner's objections to the decision. In addition, the Committee believes that FAA orders pertaining to airport compliance are exclusively reviewable in the circuit courts of appeals, like other orders issued under similar provisions in part B of subtitle VII of title 49. The Committee notes that the amendment to section 46110 would resolve the jurisdictional issue raised in *City of Alameda v. FAA*, 285 F.3d 1143 (9th Cir. 2002). Conferees agreed to strike "part" and insert "Subparts A and B"; strike the reference to "safety" in order to clarify that the provision is not limited to safety orders of the FAA. Similar changes are made with respect to the Transportation Security Administration.

107. CIVIL PENALTIES

*House bill*

No provision.

*Senate amendment*

Sets all civil penalties at \$25,000. Increases the limit for the administrative imposition of civil penalties to \$1 million.

*Conference substitute*

Senate amendment on civil penalties with an exemption for individuals and small businesses. They will not be subject to the penalty increase but will be subject to the penalty they were subject to prior to the enactment of this Act. Also, sets the limit for the administrative imposition of civil penalties at \$400,000.

108. FLIGHT ATTENDANT CERTIFICATION

*House bill*

Prohibits a person from serving as a flight attendant on an aircraft of a U.S. airline unless that person holds a certificate from the FAA. That person must present that certificate, upon request, to an authorized Federal official within a reasonable time. People currently serving as flight attendants can continue to do so pending their certification. After the airline notifies the FAA that a person has met the qualifications for certification, that person may serve as a flight attendant even if that person does not have the certificate in hand. Requires the FAA to issue a certificate to a person after the airline notifies the FAA that the person has completed all FAA approved training. Designates the appropriate airline official to determine whether a person has successfully completed the training. Requires the certificate to be numbered and recorded by the FAA, contain the name, address, and description of the flight attendant, contain the name of the airline that the flight attendant works for, be similar to airmen certificates, contain the airplane group (jet or prop) for which the certificate is issued, and be issued by the FAA within 30 days of notification by the airline or within 1 year of the effective date of this section.

Subsection (e) states that all flight attendant training programs, other than those involving security, are subject to FAA approval. Training programs approved within one year prior to the date of enactment may be used as the basis for certifying flight attendants. Defines "flight attendant". This section takes effect one year after the date of enactment.

*Senate amendment*

Requires FAA to establish standards for flight attendant training. FAA shall require

flight attendants to complete training courses approved by FAA and TSA. FAA shall issue a certificate to each person that completes the course. Has a similar requirement for the certificate. Similar definition of "flight attendant".

*Conference substitute*

House bill, however Conferees agreed to allow the Administrator 120 days to issue the certificate after receiving notification from the air carrier.

109. CIVIL PENALTY FOR CLOSURE OF AN AIRPORT WITHOUT PROVIDING SUFFICIENT NOTICE

*House bill*

Requires the government agency that owns or controls an airport to provide 30 days notice before that airport is closed. There is \$10,000 penalty for each day that the airport remains closed without having given the proper notice.

*Senate amendment*

Same provision.

*Conference substitute*

House bill and Senate amendment. This provision applies only to airport closures that are permanent, not to temporary closures for emergency or operational reasons.

110. NOISE EXPOSURE MAPS

*House bill*

This section replaces an obsolete date reference and directs airports to update their noise exposure maps if there is a change in the operations at the airport that would lead to a significant increase or decrease in noise.

*Senate amendment*

Similar provision with exception that does not direct airports to update their noise exposure maps if there is a change in the operations at the airport that would lead to a significant increase or decrease in noise.

*Conference substitute*

House bill.

111. OVERFLIGHT FEES

*House bill*

This section makes clear that the changes to the method for calculating overflight fees in the Aviation and Transportation Security Act were not nullified by the savings provision in that Act.

*Senate amendment*

The provision has a similar goal but accomplishes it differently.

*Conference substitute*

Conferees agreed to ratify the interim final rule and final rule issued by the FAA on May 30, 2000, and August 13, 2001, respectively. This ratification applies to fees collected after the date of enactment of the Aviation and Transportation Security Act and before the court decision striking down those fees. It also applies to the fees that FAA collects in the future after it undertakes the actions required by this provision. The FAA may not resume collecting fees until after the Administrator reports to Congress in response to the issues raised in the April 8, 2003 court decision; and after the FAA consults with users and other interested parties to ensure the fees established are consistent with the international obligations of the United States. Conferees intend that consultations before the date of enactment shall satisfy this requirement.

Conferees note that in 1996, Congress directed the FAA Administrator to set and collect fees for the provision of air traffic control and related services for flights that fly over but do not land in the United States. This was done to recover a portion of the costs of these services from those who receive the benefit of the services but who would otherwise pay nothing. Although the

FAA Administrator has diligently proceeded to recover such costs through the imposition of overflight fees, a group of foreign airlines has challenged the fees in United States Court of Appeals for the District of Columbia Circuit.

On April 8, 2003, when the United States Court of Appeals for the District of Columbia Circuit issued an opinion in the case of Air Transport Association of *Canada et al v. FAA*, No. 01-1446, setting aside and remanding to the FAA the Final Rule issued on August 13, 2001 under Section 45301(b)(1)(B) because the Court concluded that, as a result of the generic savings provision set forth in Section 141 of the ATSA, Section 119(d) of ATSA did not apply to this Final Rule since it was the subject of the foreign air carriers' pending challenge at the time the ATSA was enacted. It was never the intention of Congress that the savings provision set forth in Section 141 was to have this effect, and this amendment clarifies that fact by retroactively applying Section 119(d) to both the Interim Final Rule issued on May 30, 2000 as well as the Final Rule issued on August 13, 2001.

Also, to clarify that the FAA has complied with its statutory mandate regarding overflight fees in the Interim Final Rule and Final Rule and to ensure the fees can be collected in the future, the language and authority approved by the Court of Appeals for the District of Columbia Circuit in *Thomas v. Network Solutions, Inc.*, 176 F. 3d 500 (D.C. Cir 1999) is adopted hereto retroactively, as well as prospectively, to legalize and ratify both the Interim Final Rule and the Final Rule, effective as of the dates those rules were originally issued by the FAA.

Although the Court of Appeals has never found a violation of international law in the overflight fee rulemakings, there have been complaints that international law has not been complied with by the FAA. To ensure compliance, the Administrator is directed to consult and confer on the concerns of foreign governments and users that the fees established by this section conform to the international obligations of the United States and the Administrator is authorized to adjust the fees, if necessary, to conform to the obligations of the United States under international law.

#### 112. IMPROVEMENT OF CURRICULUM STANDARDS FOR AVIATION MAINTENANCE TECHNICIANS

##### House bill

This section requires FAA to update the curriculum for training aircraft mechanics to reflect current technology and maintenance practices. Maintains requirement for 1900 hours of training.

##### Senate amendment

No provision.

##### Conference substitute

House bill without specifically mentioning the 1900-hour minimum requirement.

#### 113. AIR QUALITY IN AIRCRAFT CABINS

##### House bill

This section directs the FAA to undertake the studies and analysis called for in the National Academy of Sciences study on airline cabin air quality.

##### Senate amendment

Similar provision, but adds two requirements, to study air pressure and altitude and to establish an incident reporting system.

##### Conference substitute

Senate amendment.

#### 114. RECOMMENDATIONS CONCERNING TRAVEL AGENTS

##### House bill

This section requires DOT to consider the recommendations of the National Commis-

sion to Ensure Consumer Information and Choice in the Airline Industry and to report to Congress on any actions that it believes should be taken.

##### Senate amendment

Same provision.

##### Conference substitute

House bill and Senate amendment.

#### 115. REIMBURSEMENT FOR LOSSES INCURRED BY GENERAL AVIATION ENTITIES

##### House bill

This section authorizes \$100 million to reimburse general aviation businesses that have incurred costs or lost money as a result of security restrictions. The businesses eligible for this reimbursement are the fixed based operator and any other general aviation businesses at Reagan National Airport that has been largely closed to general aviation since September 11, 2001, the 3 general aviation airports in the Washington, D.C. area that were closed after September 11th and are now operating under security restrictions, banner towers who have been prohibited from flying over stadiums, flight schools that have been unable to train foreign students, and any other general aviation business that is prohibited from operating due to similar restrictions.

##### Senate amendment

Similar provision but does not explicitly include banner towers or flight schools in each coverage. Definition of general aviation entity is slightly different.

##### Conference substitute

House bill, but narrows reimbursement eligibility to general aviation businesses that are specifically identified as having incurred costs or lost money as a result of the events of September 11, 2001.

#### 116. IMPASSE PROCEDURES FOR NATIONAL ASSOCIATION OF AIR TRAFFIC SPECIALISTS

##### House bill

This section requires the wage dispute between the FAA and the National Association of Air Traffic Specialists to be submitted to the Federal Services Impasse Panel if it has not been resolved within 30 days of enactment of this Act.

##### Senate amendment

No provision.

##### Conference substitute

No provision.

#### 117. FAA INSPECTOR TRAINING

##### House bill

Directs GAO to undertake a study of the training of FAA's safety inspectors. Sense of the House that FAA safety inspectors should take the most up-to-date training at a location convenient to the inspector and that the training should have a direct relation to the inspector's job requirements. Directs the FAA to arrange for the National Academy of Sciences to study the staffing standards the FAA uses for its inspector workforce.

##### Senate amendment

No provision.

##### Conference substitute

House bill.

#### 118. AIR TRAFFIC OVERSIGHT SYSTEM (ATOS)

##### House bill

No provision.

##### Senate amendment

Requires FAA, within 90 days, to transmit an action plan for overseeing repair stations, ensuring foreign repair stations are subject to the same level of oversight as domestic ones, and addressing problems with ATOS identified by GAO and the IG. Sets forth the requirements for the action plan including

extending ATOS beyond the 10 largest airlines.

##### Conference substitute

Senate amendment that within 90 days, the FAA shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a plan containing an implementation schedule to strengthen oversight of domestic and foreign repair stations and ensure that Administration-approved foreign repair stations are subject to an equivalent level of safety, oversight, and quality control as those located in the United States. This does not require, nor does it prevent, the FAA to perform the same number of inspections on foreign repair stations as domestic ones.

#### 119. PROHIBITION ON AIR TRAFFIC CONTROL PRIVATIZATION

##### House bill

Prohibits DOT from privatizing the functions performed by its air traffic controllers who separate and control aircraft. States that this prohibition does not apply to the functions performed at air traffic control towers that are operated by private entities under the FAA's contract tower program. This exemption covers the current air traffic control towers that are part of the FAA contract tower program and to non-towered airports and non-federal towers that would qualify for participation in this program.

##### Senate amendment

Prohibits DOT from privatizing the functions performed by its air traffic controllers who separate and control aircraft and the functions of those who maintain and certify those systems. Section shall not apply to an FAA tower operated under the contract tower program as of the date of enactment.

##### Conference substitute

Prohibits DOT from privatizing air traffic control functions associated with the separation and control of aircraft, but ensures that the current contract tower program can continue and be expanded to new towers and VFR towers. The prohibition sunsets after 4 years.

#### 120. AIRFARES FOR MEMBERS OF THE ARMED FORCES

##### House bill

This is a sense of Congress urging airlines to provide low fares for Members of the Armed Forces of the United States. Also includes findings.

##### Senate amendment

Similar provision. No findings. Refers only to standby tickets.

##### Conference substitute

House bill.

#### 121. AIR CARRIERS REQUIRED TO HONOR TICKETS FOR SUSPENDED AIR SERVICE

##### House bill

This section extends for 9 more months the requirement that airlines accommodate passengers whose flight is cancelled due to the bankruptcy of the carrier on which that passenger was ticketed.

##### Senate amendment

Same provision. Also requires DOT to consider waiving this requirement where other airlines operate flights over routes operated in isolated areas dependent on air transportation.

##### Conference substitute

House bill and Senate amendment but without the waiver in the Senate amendment.

#### 122. INTERNATIONAL AIR SHOW

##### House bill

This section directs DOT, in consultation with the Secretary of Defense, to study the

feasibility of the United States hosting an international air show. A report is required by September 30, 2004.

*Senate amendment*

No provision.

*Conference substitute*

House bill to direct DOT to work with DOD on an international air show.

123. RETIREMENT BENEFITS OF AIR TRAFFIC CONTROLLERS

*House bill*

This section allows an air traffic controller who is promoted to a supervisory or managerial position to retain the same retirement benefits as one who was not so promoted. Amends the definition of an "air traffic controller" within the Civil Service Retirement System (CSRS) and Federal Employee Retirement System (FERS) to include second level air traffic controller supervisors. Clarifies that CSRS and FERS mandatory retirement provisions that apply to line air traffic controllers do not apply to second level supervisors. Specifies that this section shall take effect on the 60th day after the date of enactment. Allow current second level supervisors who have been promoted prior to enactment to retroactively pay into the higher CSRS accrual rate.

*Senate amendment*

No provision.

*Conference substitute*

The provision would ensure that former controllers could keep the retirement benefits they accrued as controllers. Also controllers who were promoted to first line supervisors as well as the supervisors of those first line supervisors would continue to accrue the retirement benefit of controllers. Others who are promoted to higher supervisory positions or who move out of the controller ranks would get controller retirement benefits only for the time they spent as controllers.

124. JUSTIFICATION FOR AIR DEFENSE IDENTIFICATION ZONE

*House bill*

If the FAA imposes flight restrictions in the Washington D.C. area, this section requires FAA to submit a report to Congress within 60 days explaining the need for such restrictions. If such restrictions are in effect on the date of enactment, this report must be filed within 30 days of the date of enactment.

*Senate amendment*

Same provision with some different wording.

*Conference substitute*

House bill.

125. INTERNATIONAL AIR TRANSPORTATION

*House bill*

This is a sense of Congress urging DOT to define "fifth freedom" and "seventh freedom" consistently for both scheduled and charter passenger and cargo traffic.

*Senate amendment*

No provision.

*Conference substitute*

House bill.

126. REIMBURSEMENT OF AIR CARRIERS FOR CERTAIN SCREENING AND RELATED ACTIVITIES

*House bill*

This section directs DOT, subject to the availability of funds, to reimburse U.S. airlines and airports for the security activities that they are still being required to perform. It also directs DOT to reimburse airports for the space being used to screen passengers if that space was being used or would have been used by concessionaires or other for revenue producing activities.

*Senate amendment*

No provision.

*Conference substitute*

House bill, but limited to reimbursement for the screening of catering supplies and checking documents at security checkpoints. The Department of Homeland Security, rather than DOT, would be responsible for implementing this provision to the extent funds are made available to them.

127. GENERAL AVIATION FLIGHTS AT RONALD REAGAN WASHINGTON NATIONAL AIRPORT

*House bill*

This is a sense of Congress that Reagan National Airport should be opened to general aviation flights as soon as possible.

*Senate amendment*

No provision.

*Conference substitute*

Requires the Secretary of Homeland Security to develop and implement a security plan to permit general aviation aircraft to land and take off at Ronald Reagan Washington National Airport. The Administrator of the Federal Aviation Administration is required to allow general aviation aircraft that comply with the requirements of the security plan to land and take off at the Airport except during any period that the President suspends the plan developed by DHS due to national security concerns. Also requires a Report to Congress if a plan is suspended.

128. CHARTER AIRLINES

*House bill*

This section prohibits scheduled charter airlines from operating at Teterboro unless the Secretary finds that it is in the public interest.

*Senate amendment*

No provision.

*Conference substitute*

House bill.

129. IMPLEMENTATION OF CHAPTER 4 NOISE STANDARDS

*House bill*

This section requires DOT to issue rule to implement Chapter 4 noise standards by July 1, 2004.

*Senate amendment*

No provision.

*Conference substitute*

House bill but the deadline for the final rule is April 1, 2005.

130. JACKSON HOLE

*House bill*

No provision.

*Senate amendment*

Permits Jackson Hole to prohibit operations by small stage 2 aircraft.

*Conference substitute*

Senate amendment, but permits a sponsor of a commercial service airport who does not own the airport land and is a party to a long-term lease agreement with a Federal agency (other than the Department of Defense or the Department of Transportation) to impose restrictions on, or prohibit, the operation of small Stage 2 aircraft, in order to help meet the noise control plan contained within the lease agreement. The airport sponsor must give public notice and allow for public comment before imposing a restriction or prohibition.

131. CREW SECURITY TRAINING

*House bill*

Requires airlines to provide basic security training for flight attendants and sets forth the elements of that training. TSA shall establish minimum standards for that training

within one year. Requires TSA to develop and provide advanced self-defense training for flight attendants and sets forth the elements of that training. This training is voluntary and flight attendants are not compensated for taking that training. They cannot be charged a fee. Exempts flight attendants from liability for using self-defense techniques in an actual terrorist situation.

*Senate amendment*

No provision.

*Conference substitute*

House bill. The provision requires the TSA to set the minimum standards to be included in the basic security training provided by each carrier to train flight and cabin crewmembers to prepare the crew members for potential threat conditions. This is intended to make sure that each carrier's training program includes the minimum standards that have been outlined by Congress and the TSA. The programs will be subject to approval of the TSA, who will also monitor and periodically review those programs to assure that the programs are adequately preparing crew members for potential threat situations.

132. STUDY OF TRANSPORTATION SECURITY

*House bill*

No provision.

*Senate amendment*

Requires DHS to report in 6 months on the effectiveness of aviation security.

*Conference substitute*

Senate amendment, but this report may be submitted in lieu of TSA's annual report required by section 44938 of current law.

133. LETTERS OF INTENT TO PAY FOR AIRPORT SECURITY PROJECTS

*House bill*

No provision, but section 1525 of H.R. 2144 establishes a grant program to airport sponsors for (1) projects to replace conveyers related to security, (2) projects to reconfigure baggage areas, (3) projects that enable EDS installation behind the ticket counters, in baggage sorting areas or as part of an in-line systems, and (4) other security improvement projects determined appropriate. Authorizes Under Secretary to issue letters of intent. Established the Federal share of projects to be 90% for large and medium hubs and 95% for smaller airports. Authorized \$500M to be appropriated in each of FY04, FY05, FY06 and FY07 to be available until expended. Prohibits the collection of the security fees unless appropriations cover all outstanding LOI commitments in a given Fiscal year.

*Senate amendment*

Establishes Aviation Security Capital Fund to provide financial assistance to airport sponsors to defray capital investment in transportation security. Authorizes \$500M for each of FY04, FY05, FY06, and FY07 to be derived from the passenger and air carrier security fees. Allocates funds 40% large hub, 20% medium hub, 15% small hub, and 25% discretionary. Amounts allocated to airports are apportioned based on passenger enplanements. Authorizes letters of intent. No provision on Federal share.

*Conference substitute*

Establishes within the Department of Homeland Security a grant program to airport sponsors for (1) projects to replace baggage conveyer systems related to aviation security; (2) projects to reconfigure terminal baggage areas as needed to install explosive detection systems; (3) projects to enable the Under Secretary for Border and Transportation Security to deploy explosive detection systems behind the ticket counter, in the baggage sorting area, or inline with the baggage handling system; and (4) other airport

security capital improvement projects. Authorizes Under Secretary to issue letters of intent. Establishes the Federal share of projects to be 90% for large and medium hubs and 95% for smaller projects. This applies to all grants made under letters of intent beginning in fiscal year 2004 even if the letter was issued in fiscal year 2003. The Under Secretary shall revise letters of intent issued before the date of enactment to reflect this cost share with respect to projects carried out after September 30, 2003. Requires \$250 million annually from the existing aviation security fee that is paid by airline passengers to be deposited in an Aviation Security Capital Fund, and made available to finance this grant program. Of this \$250 million, \$125 million shall be allocated based on the following set-asides: 40% to large hub airports, 20% to medium hub airports, 15% to small and non-hub airports, and 25% to any size airport based on aviation security risks. The remaining \$125 million shall be used to make discretionary grants, with priority given to fulfilling letters of intent. In addition to the amounts made available to the Aviation Security Capital Fund, there is authorized to be appropriated an additional \$250 million to carry out this program. If additional amounts are appropriated pursuant to this authorization, 50% shall be used for discretionary grants, and 50% in accordance with the set-asides discussed above.

## 134. CHARTER SECURITY

*House bill*

No provision, but section 1503(1) of H.R. 2144 moves the provisions governing charters into title 49 and exempts military charters from the requirements that would otherwise apply. Also makes a technical change in the size of charter aircraft covered.

*Senate amendment*

Maintains as a freestanding provision but otherwise virtually the same. Section 406 makes the same technical change.

*Conference substitute*

Senate amendment, but includes the provision in U.S. Code, title 49.

135. COMPUTER ASSISTED PASSENGER  
PRESCREENING SYSTEM (CAPPS2)*House bill*

No provision, but section 208 of H.R. 2144 requires TSA to certify that civil liberty and privacy issues have been addressed before implementing CAPPS 2 and requires GAO to assess TSA compliance one year after TSA makes the required certification.

*Senate amendment*

Requires DHS report in 90 days on privacy and civil liberties issues.

*Conference substitute*

House bill and Senate amendment, but requires the GAO report in the House bill to be submitted 3 months after TSA certification

## 136. ARMING CARGO PILOTS

*House bill*

No provision but section 1521 of H.R. 2144 allows cargo pilots to carry guns under the same program for pilots of passenger airlines. In addition, this provision revises the armed pilots program to do the following—

Make clear that pilot requalification to carry a gun can be done at either Federal or non-Federal facility

Establish a pilot program to provide firearms requalification training at various non-Federal facilities;

Permit an off-duty pilot to transport the gun in a lockbox in the passenger cabin rather than in the baggage hold; and

Permit flight engineers to participate in the Federal flight deck officer program.

*Senate amendment*

Similar provision but includes findings and sense of Congress and requires training of cargo pilots to begin in 90 days.

*Conference substitute*

Senate amendment, but instead of 90-day provision on training cargo pilots, Conferees included a provision that both passenger and cargo pilots should be treated equitably in their access to training.

## 137. TSA STAFFING LEVELS

*House bill*

No provision but section 206 of H.R. 2144 requires TSA to report to Congress in 30 days on its methodology for allocating screeners and equipment among airports.

*Senate amendment*

Section 409, eliminates the cap in the FY 03 Appropriations Act on the number of TSA screeners.

*Conference substitute**Senate amendment.*

## 138. FOREIGN REPAIR STATION SECURITY

*House bill*

No provision but section 1526 of H.R. 2144 requires security audits of all foreign repair stations within 1 year after TSA issues rules governing the audits. The rules must be issued within 180 days of enactment. If a problem is found, the repair station must address it in 90 days or its certificate will be suspended until it complies. If there is an immediate security risk, the certificate can be revoked immediately. TSA shall establish procedures for appealing such revocations. If the security audits are not completed within the required 1-year, no new foreign repair station can be certified and no existing one can have their certificate renewed. Priority shall be given to auditing stations in countries that pose the most significant security risk.

*Senate amendment*

Defines domestic and foreign repair station. Within 180 days, FAA must issue rules to require foreign repair stations to meet the same level of safety as domestic repair stations. These rules shall require drug and alcohol testing and the same type and level of inspection as domestic repair stations.

Requires security audit within 180 days. If a problem is found, the repair station must address it in 90 days or its certificate will be suspended until it complies. If there is an immediate security risk, the certificate can be revoked immediately. If the security audits are not completed within the required 180 days, no new foreign repair station can be certified and no existing one can have their certificate renewed. Priority shall be given to auditing stations in countries that pose the most significant security risk. Rules for security audits must be issued within 180 days. If they are not, no new foreign repair station can be certified and no existing one can have their certificate renewed until the rules are issued.

Requires FAA, within 90 days, to transmit an action plan for overseeing repair stations, ensuring foreign repair stations are subject to the same level of oversight as domestic ones

*Conference substitute*

House bill except—Lengthened time to issue rule from 6 to 8 months. If TSA fails to meet this deadline, require a report within 30 days of the deadline explaining the reasons for failing to meet the deadline and the schedule for issuing the rule. Lengthened time for security audits from 12 to 18 months. Eliminated the provision that prohibits renewal of foreign repair station certificates if TSA has not met this 18-month

deadline but keep provision that no new stations can be certificated.

## 139. FLIGHT TRAINING

*House bill*

No provision, but section 1539 of H.R. 2144 requires background checks on aliens seeking flight training in aircraft with more than 12,500 pounds. Makes TSA responsible for the background check. Specifies the information that can be collected from the alien. Continues the 45-day waiting period. Continues to require security awareness training for employees. Requires, within 90 days, TSA to establish an expedited process that limits the waiting period to 48 hours for individuals who hold a pilot license from a foreign country, have previously undergone a background check, or who have already had pilot training. Exempts from the waiting period those seeking recurrent training or ground training. Doesn't provide for fees.

*Senate amendment*

Requires background checks on aliens seeking flight training in any sized aircraft. Makes TSA responsible for the background check. Doesn't specify the info that can be collected. Reduces the waiting period to 30 days. Continues to require security awareness training for employees. Establishes a notification process for aliens who holds a visa and holds a pilot license from a foreign country or has previously undergone a background check. Exempts from the waiting period classroom instruction. Allows fees to be assessed for the background check. Fee cannot be more than \$100 in FY 2003 and 2004. Fees are credited to TSA's account. Requires interagency cooperation. Requires TSA to issue an interim final rule in 60 days to implement this section. This section takes effect when that rule becomes effective. U.S. embassies and consulates shall provide fingerprint services to aliens. Report is required within 1 year

*Conference substitute*

For all training on small aircraft, includes a notification requirement but no waiting period. For training on larger aircraft, adopts the expedited procedure similar to the House bill if they already have training, a license, or a background check and adopts the 30-day waiting period as in the Senate bill for first-time training on large aircraft. Makes TSA responsible for the background check. The managers are disappointed in the amount of time that the Justice Department took to implement this program and on the burdensome requirements it has imposed. Therefore, the substitute specifies the information that can be collected from the alien. Reduces the waiting period to 30 days. Establishes a notification process for all aliens, even if they hold a visa, who seeks training on aircraft of 12,500 pounds or less. Requires, within 60 days, that TSA establish an expedited process that limits the waiting period to 5 days for aliens seeking training on aircraft of more than 12,500 pounds who hold a pilot license from a foreign country, have previously undergone a background check, or who have already had pilot training.

Requires all others to go through the background check under the 30-day waiting period. Exempts from the process those seeking recurrent training or ground training or demonstration flights or classroom instruction as well as military trainees of the armed forces, including their contractors. Allows fees to be assessed for the background check. Fee cannot be more than \$100 in FY 2003 and 2004. Fees are credited to TSA's account. Requires interagency cooperation. Requires TSA to issue an interim final rule in 60 days to implement this section. This section takes effect when that rule becomes effective. U.S. embassies and consulates shall

provide fingerprint services to aliens. A report is required within 1 year. Continues to require security awareness training for employees.

140. REVIEW OF COMPENSATION CRITERIA UNDER STABILIZATION ACT

*House bill*

This section requires GAO to review the way airlines were compensated after 9/11 to determine whether they should be compensated for the devaluation of their aircraft.

*Senate amendment*

No provision.

*Conference substitute*

House bill, however study is on DOT criteria and procedures used to compensate airlines.

141. AIRLINE FINANCIAL CONDITION AND EXECUTIVE COMPENSATION

*House bill*

No provision.

*Senate amendment*

Requires semiannual GAO report on measures being taken by airlines to reduce costs and improve earnings and on total compensation, including stock options paid to airline executives.

*Conference substitute*

Requires a report.

142. REVIEW OF CERTAIN AIRCRAFT OPERATIONS IN ALASKA

*House bill*

This section requires FAA to report to Congress on whether flights in Alaska can be operated under Part 91 of FAA rules even if passengers pay for some of the costs of operating the aircraft.

*Senate amendment*

No provision.

*Conference substitute*

Conferees agreed that due to the demands of conducting business within and from the State of Alaska, the FAA shall permit, where common carriage is not involved, a company, located in the State of Alaska, to organize a subsidiary where the only enterprise of the subsidiary is to provide carriage of officials, employees, guests, and property of the company, or its affiliate. The substitute sets forth specific limitations on the carriage that is allowed.

143. USING AIP FOR REPLACEMENT OF BAGGAGE CONVEYER SYSTEMS

*House bill*

This section states that an airport can only use its AIP entitlement funds for airport terminal modifications to accommodate explosive detection systems. AIP discretionary funds will not be available for this purpose.

*Senate amendment*

Prohibits the use of AIP for this purpose.

*Conference substitute*

House bill.

144. USING AIP OR PFC FOR SECURITY

*House bill*

No provision, but section 44901(d)(2)(D)(ii) of H.R. 2144 deletes the requirement that airports unable to make the checked baggage screening deadline give priority to using AIP and PFCs for security projects.

*Senate amendment*

Amends section 308 of the Federal Aviation Reauthorization Act of 1996 to allow AIP and PFCs to be used for safety and security only if the improvement or equipment will be owned by the airport.

*Conference substitute*

Repeals section 308 of the Federal Aviation Reauthorization Act of 1996.

145. SECURITY OPERATING COSTS AT SMALL AIRPORTS

*House bill*

This section allows small airports to use their AIP entitlement funds in fiscal year 2004 to pay the operating costs required to meet new security requirements.

*Senate amendment*

No provision.

*Conference substitute*

No provision.

146. WITHHOLDING OF DISCRETIONARY GRANTS

*House bill*

If an AIP discretionary grant is withheld from an airport on the grounds that the airport has violated a grant assurance, this section requires that the airport be given the same right to a hearing that it would have if the FAA had withheld an entitlement grant. This section does not require the FAA to give a discretionary grant to any particular airport.

*Senate amendment*

No provision.

*Conference substitute*

No provision.

147. DISPOSITION OF LAND ACQUIRED FOR NOISE COMPATIBILITY PURPOSES

*House bill*

Rather than depositing into the aviation trust fund the proceeds from the sale of land acquired as part of a noise compatibility program, this section allows an airport to retain those proceeds and use them to purchase non-residential property near residential property that was purchased as part of a noise compatibility program.

*Senate amendment*

No provision.

*Conference substitute*

House bill.

148. GRANT ASSURANCES

*House bill*

If an airport owner and an aircraft owner agree that an aircraft hangar can be constructed at the airport at the aircraft owner's expense, subsection (a) requires the airport owner to grant a long-term lease, or at least 50 years, to the aircraft owner for that hangar. The lease may be subject to such terms and conditions on the hangar as the airport may impose.

*Senate amendment*

No provision.

*Conference substitute*

House bill but does not specify 50 years.

149. STATUTE OF LIMITATION ON REIMBURSEMENT REQUEST

*House bill*

Makes a governmental entity subject to the 6-year statute of limitations on making requests for reimbursement from an airport. Currently, only the airport sponsor is subject to this statute of limitations.

*Senate amendment*

Subsection (d) of section 507 is the same provision.

*Conference substitute*

House bill and Senate amendment.

150. SINGLE AUDIT ACT

*House bill*

Clarifies the review of revenue use through the annual audit activities under the Single Audit Act of Title 31.

*Senate amendment*

Subsection (e) of section 507 is the same provision.

*Conference substitute*

House bill and Senate amendment.

151. AIP FOR PARKING LOTS

*House bill*

Permits AIP grants to be used to build or modify a revenue generating parking facility at an airport if it is needed to comply with a security directive.

*Senate amendment*

No provision.

*Conference substitute*

No provision.

152. ALLOWING AIP TO PAY INTEREST

*House bill*

Permits AIP grants to be used at small airports to pay the interest on a bond used to finance an airport project.

*Senate amendment*

No provision.

*Conference substitute*

House bill but included as one of the innovative financing techniques already in existing law.

153. ALLOWING AIP TO PAY TO MOVE BUILDINGS

*House bill*

Permits AIP grants to be used to pay the cost of moving a Federal building that is impeding an airport project to the extent the new building is similar to the old one

*Senate amendment*

No provision.

*Conference substitute*

House bill.

154. APPORTIONMENTS TO PRIMARY AIRPORTS

*House bill*

Lowers the entitlement for the largest airports by 5 cents for each passenger at that airport over 3.5 million in a year.

*Senate amendment*

No provision.

*Conference substitute*

No provision.

155. ENTITLEMENT FOR FORMER PRIMARY AIRPORTS

*House bill*

Allows airports that fell below the 10,000 passengers in 2002 or 2003 to continue to receive their primary airport entitlement for two years if the reason for the passenger decrease was the terrorist attacks of 9/11.

*Senate amendment*

Allows airports that fell below 10,000 passengers in 2002 to continue to receive their primary airport entitlement for one more year without regard to the reason for the decrease.

*Conference substitute*

House bill.

156. CARGO AIRPORTS

*House bill*

This section increases the entitlement for airports with air cargo service from 3% of total AIP to 3.5%.

*Senate amendment*

Same provision.

*Conference substitute*

House bill and Senate amendment.

157. CONSIDERATIONS IN MAKING DISCRETIONARY GRANTS

*House bill*

This section restates the first five factors that FAA must consider in deciding whether to make a discretionary grant for a project to enhance capacity at an airport. The sixth consideration in current law is eliminated. This section also adds two additional factors for FAA to consider when making discretionary grants for all projects. One is where the project stands in the FAA's priority system. The second is whether work can begin on the project soon after the grant is made.



*Senate amendment*

Adds an additional consideration for cargo operations.

*Conference substitute*

House bill and Senate amendment.

## 158. FLEXIBLE FUNDING FOR AIP ENTITLEMENTS

*House bill*

Permits an airport sponsor to make AIP entitlement grants for one of its airports available to another one of its airports if that other airport is eligible to receive AIP grants. It also permits an airport to make an agreement with FAA to forego its entitlement if the FAA agrees to make the money foregone available for a grant to another airport in the same State or to an airport that the FAA determines is in the same geographical area.

*Senate amendment*

Same with respect to the second waiver dealing with the same State or geographical area.

*Conference substitute*

Senate amendment.

## 159. FLEXIBILITY FOR GENERAL AVIATION ENTITLEMENTS

*House bill*

Permits multiyear grants using the general aviation entitlement to the same extent that they are permitted using the primary airport entitlement. Permits retroactive use of the general aviation entitlement in the same way that the primary airport entitlement can be used. It also permits a general aviation airport to use its AIP entitlement for revenue producing facilities, such as building fuel farms and hangars, if the airport certifies that its airside needs are being met. Permits a general aviation airport to use its AIP entitlement for terminal development. Section 513. Use of apportioned amounts, subsection (a) allows general aviation airports to carry over their entitlements for 3 years rather than two.

*Senate amendment*

Same provision.

*Conference substitute*

House bill and Senate amendment.

## 160. NOISE SET-ASIDE

*House bill*

Broadens the purposes for which noise set-aside funds may be used to include projects approved in an environmental Record of Decision and projects to reduce air emissions.

*Senate amendment*

Increases the percent for grants to 35%. Only allows for funding for noise mitigation committed to in ROD for National Capacity Projects, versus House that allows funding for mitigation in any ROD. Also, does not have funding for new land compatibility and CAA initiatives.

*Conference substitute*

House bill and Senate amendment with minor technical corrections.

## 161. PURCHASE OF AIRPORT DEVELOPMENT RIGHTS

*House bill*

No provision.

*Senate amendment*

Establishes a pilot program at 10 privately owned public use airports permitting the use of their entitlement to purchase development rights to ensure that the property will continue to be used as an airport.

*Conference substitute*

Senate amendment.

## 162. GARY, INDIANA

*House bill*

No provision.

*Senate amendment*

Requires FAA to give priority to request for a letter of intent for Gary.

*Conference substitute*

No provision. The Conferees are aware that there are numerous requests for LOI's and urges the FAA to respond as expeditiously as possible to such applications.

## 163. RELIEVER AIRPORTS SET-ASIDE

*House bill*

Eliminates the special set-aside for reliever airports.

*Senate amendment*

No provision.

*Conference substitute*

Senate amendment.

## 164. UNUSED AIP FUNDS

*House bill*

Allows AIP grant funds that are not spent by an airport to be recovered by the FAA and used for a grant to another airport notwithstanding any obligation limitation in an appropriations act.

*Senate amendment*

Subsection (b) of section 507 is the same provision worded somewhat differently.

*Conference substitute*

Senate amendment.

## 165. MILITARY AIRPORT PROGRAM

*House bill*

Increases from \$7 million to \$10 million the amount that an airport designated under the military airport program can use for terminal development, parking lots, fuel farms, or hangar construction. Allows an airport designated under the military airport program to use money it receives under that program or from its entitlement for reimbursement for construction of a terminal, parking lot, hangar, or fuel farm.

*Senate amendment*

No provision.

*Conference substitute*

House bill, but the allowable amount is increased to \$10 million for only 2 years.

## 166. TERMINAL DEVELOPMENT COSTS

*House bill*

This section restates two provisions in current law that permits reimbursement for terminal development costs and adds a third provision. The third provision allows a small airport that is designated under the military airport program at which terminal development is carried out between January 2003 and August 2004 to use AIP money to repay money borrowed to build that terminal.

*Senate amendment*

Reduces the waiting period for an airport that has used AIP to repay the cost of terminal development from 3 years to 1 year before they can use AIP again for terminal development.

*Conference substitute*

House bill and Senate amendment.

## 167. AIRPORT SAFETY DATA COLLECTION

*House bill*

This section allows FAA to use AIP money to enter into a sole source contract with a private entity to collect airport safety data.

*Senate amendment*

Same provision.

*Conference substitute*

House bill.

## 168. AIRPORT PRIVATIZATION PILOT PROGRAM

*House bill*

Allows a proposed airport privatization to proceed if it is approved by 65% of the sched-

uled U.S. airlines serving the airport rather than by 65% of all scheduled and charter airlines serving the airport. With respect to a general aviation airport, approval must be by 65% of the owners of aircraft based at the airport, as determined by the Secretary. If an airline has not filed an objection within 60 days, it will be considered to have approved the proposed privatization.

*Senate amendment*

No provision.

*Conference substitute*

House bill, but applied only prospectively.

## 169. FEDERAL SHARE

*House bill*

Eliminates the provision that limits the Federal share of a discretionary grant for a privatized airport to 40%.

*Senate amendment*

Increases Federal share to 95% for AIP grants in 2004 to small airports. Allows a different Federal share for projects in State with a significant amount of public land.

*Conference substitute*

Senate amendment, but for 4 years. Increases the Federal share of a discretionary grant for a privatized airport to 70%.

## 170. INNOVATIVE FINANCING TECHNIQUES

*House bill*

This section allows 12 more grants for innovative financing techniques to be issued but eliminates payment of interest and commercial bond insurance as permitted techniques since those are now covered by section 508(b). It adds payment of interest for large airports as a permitted technique.

*Senate amendment*

No provision.

*Conference substitute*

Payment of interest for small airports is put back into the innovative financing section. Instead of allowing AIP to be used by large airports for payment of interest, the substitute allows PFCs to be used for this purpose.

## 171. AIRPORT SECURITY PROGRAM

*House bill*

This section directs the FAA to continue to administer the program to test and evaluate innovative aviation security systems and technologies at airports even though most security responsibilities have been transferred to the Department of Homeland Security.

*Senate amendment*

No provision.

*Conference substitute*

House bill.

## 172. LOW-EMISSION AIRPORT VEHICLES AND INFRASTRUCTURE

*House bill*

Requires DOT and EPA to ensure that an airport will receive appropriate emission credits for carrying out a project that will reduce emissions at that airport. Directs DOT to carry out a pilot program at no more than 10 airports under which an airport may use AIP grants of not more than \$500 thousand to retrofit equipment used at the airport so that they produce lower emissions. Makes projects that will reduce emissions at airports eligible for AIP grants. States that with respect to low-emission equipment that is not already eligible to be purchased with AIP funds, the only portion of the cost that is eligible to be paid for with AIP funds is the portion that the FAA determines represents the increase in the cost of the low-emission equipment over a similar piece of equipment that is not low-emission. Defines low-emission equipment.

*Senate amendment*

Adds that the DOT and EPA shall issue guidance on eligible low-emission modifications and improvements and how sponsors will demonstrate benefits.

*Conference substitute*

House bill and Senate amendment.

## 173. COMPATIBLE LAND USE PLANNING AND PROJECTS BY STATE AND LOCAL GOVERNMENTS

*House bill*

This section would allow the FAA to use AIP funds to make grants to States and localities for land use planning near airports so that the communities may make the use of land in their jurisdictions more compatible with aircraft operations. Conditions are imposed to avoid undermining the efforts of the airport. This provision expires in 4 years.

*Senate amendment*

Ties funding for land use planning to national capacity projects only, as opposed to a broader universe of large and medium hubs in House bill. No sunset provision. Would apply to airports even if they have a current Part 150 program.

*Conference substitute*

House provision with changes to ensure that an airport sponsor is involved in the compatible land use planning and compatible land use projects process. The Managers believe that it is essential that the airport sponsor have the ability to enter into an agreement with the State or local government to develop a land use compatibility plan and that the parties should jointly approve the compatible land use plan.

## 174. PROHIBITION ON REQUIRING AIRPORTS TO PROVIDE RENT-FREE SPACE FOR FEDERAL AVIATION ADMINISTRATION

*House bill*

This section requires FAA to pay rent for the space that it uses at airports. Exceptions are provided for agreements that might be negotiated with the airport and for land and facilities needed to House air traffic controllers. TSA covered by section 1527 of H.R. 2144.

*Senate amendment*

Similar provision but it also covers TSA use of airport space.

*Conference substitute*

No provision.

## 175. MIDWAY ISLAND AIRPORT

*House bill*

Finds that the airport on Midway Island is critical to the safety of flights over the Pacific Ocean. Directs DOT to enter into an MOU with other government agencies to facilitate the sale of fuel at the airport to help it become self-sufficient. Allows the airport to transfer its navigation aids to the FAA and requires the FAA to operate and maintain them. Makes aviation trust fund money available to the Interior Department for capital projects at the airport.

*Senate amendment*

Allows the Department of the Interior to act as a public agency for the purposes of sponsoring grants for an airport that is required to be maintained for safety at a remote location. Section 510(a) is similar to subsection (b) of the House bill. Section 510(b) is similar to subsection (c) of the House bill.

*Conference substitute*

House bill, with changes to how funding will be made available to the Secretary of the Interior. It will be done by a reimbursable agreement rather than a grant. Conferees feel strongly that all of the Federal agencies involved in the administration of Midway Island should work cooperatively to ensure there is a working airfield.

## 176. INTERMODAL PLANNING

*House bill*

Requires medium and large hub airports building a new airport, new runway, or runway extension to make available to any metropolitan planning organization (MPO) in the area a copy of the airport layout plan and airport master plan.

*Senate amendment*

No provision.

*Conference substitute*

House bill.

## 177. STATUS REVIEW OF MARSHALL ISLANDS AIRPORT

*House bill*

Requires DOT to report within 6 months on whether the airport at the Marshall Islands should get a grant under the AIP.

*Senate amendment*

No provision.

*Conference substitute*

Makes the sponsors of airports located in the Republic of the Marshall Islands, the Federated States of Micronesia, and Palau eligible for grants from the Airport Improvement Program Discretionary Fund and Small Airport Fund for fiscal years 2004 through 2007. Conferees have made the entities in section 188 eligible for AIP funding. The Conferees believe that FAA should strongly consider an application for AIP funds by any one of the entities.

## 178. REPORT ON WAIVER OF PREFERENCE FOR BUYING GOODS PRODUCED IN THE UNITED STATES

*House bill*

Requires DOT, within 90 days, to list all waivers granted from the Buy America Act since the date of enactment of that Act and the authority and rationale for that waiver.

*Senate amendment*

No provision.

*Conference substitute*

House bill but limited to waiver granted during the previous 2 years.

## 179. EXTENSION OF EXPENDITURE AUTHORITY

*House bill*

Allows grants to be made from the aviation trust fund for the purposes specified in this Act.

*Senate amendment*

Similar provision but adds a conforming amendment to section 9502(f).

## CONFERENCE SUBSTITUTE

Senate amendment plus additional language making a technical correction to the domestic flight segment portion of the airline ticket tax. Beginning with calendar year 2003, the domestic flight segment portion of the airline ticket tax is adjusted for inflation annually. The technical correction clarifies that, in the case of amounts paid for transportation before the beginning of the year in which the transportation is to occur, the rate of tax is the rate in effect for the calendar year in which the amount is paid. The provision is effective for flight segments beginning after December 31, 2002.

The Managers strongly encourage the FAA and the Occupational Safety and Health Administration to continue to work under the framework established in the August 2000 Memorandum of Understanding and establish a coordination mechanism to determine which existing and future OSHA regulations can be applied to an aircraft in operation without compromising aviation safety.

The Managers are aware of concerns about the impact of aircraft noise on residential areas, including those surrounding the communities of the four airports of the Port Au-

thority of New York and New Jersey (PANYNJ). Although the FAA determined that aircraft noise pollution was the strongest and most widespread concern raised by the public at its twenty-eight public scoping meetings in five states in 2001, the PANYNJ has not undertaken action to mitigating residential complaints in the neighborhoods surrounding its airports. Therefore, it is the hope of the Conference Committee that the PANYNJ will work in good faith with the New York and New Jersey Congressional delegations to address these issues, including undertaking a part 150 study to qualify for Federal residential soundproofing dollars or to begin undertaking residential soundproofing in the most affected areas in the footprint with particular focus on the neighborhoods surrounding LaGuardia Airport.

The Managers strongly encourage the FAA to work with state aviation agencies and universities to develop a national, innovative program that would offer practical training and information resources for those who operate, maintain, and administer public use airports across the nation on topics such as pavement maintenance, snow and ice control, project development and funding, wildlife control and safety and operations. To further this program, the Committee recommends that FAA consult with state aviation agencies and universities that have created similar programs for general aviation airports in their state.

The legislation includes a section that amends section 4(b) of the Rivers and Harbors Appropriations Act of 1884 to clarify that the restriction in that section with respect to taxes on vessels or other water craft does not apply to property taxes on vessels or water craft, other than vessels or water craft that are primarily engaged in foreign commerce, so long as those taxes are constitutionally permissible under long-standing judicial interpretations of the Commerce Clause. To assure the consistent application of legal principles concerning non-Federal taxation of interstate transportation equipment, the amendment in this section is effective as of November 25, 2002. Over the years, the U.S. Supreme Court has ruled on the constitutionality of property taxes on various forms of interstate and international transportation equipment in a number of cases, including but not limited to *Pullman's Palace Car Co. v. Pennsylvania*, 141 U.S. 18 (1891) (railroad rolling stock); *Ott v. Mississippi Valley Barge Line Co.*, 336 U.S. 169 (1949) (barges on inland waterways); and *Braniff Airways, Inc. v. Nebraska State Board of Equalization*, 347 U.S. 590 (1954) (domestic aircraft); *Complete Auto Transit, Inc. v. Brady*, 430 U.S. 274 (1977); and *Japan Line v. County of Los Angeles*, 441 U.S. 434 (1979). This line of decisions has sustained property taxes in interstate transportation cases when the tax is applied to an activity with a substantial nexus with the taxing entity, is fairly apportioned, does not discriminate against interstate commerce, and is fairly related to the services provided by the taxing entity. The exception for state and local taxes on vessels or watercraft that are primarily engaged in foreign commerce implements the holding of the *Japan Line* case. The committee notes that section 4(b) does not affect whether sales or income taxes are applicable with respect to vessels. The purpose of section 4(b) was to clarify existing law with respect to Constitutionally permitted fees and taxes on a vessel, but also to prohibit fees and taxes imposed on a vessel simply because that vessel sails through a given jurisdiction.

The Managers are aware of the concerns raised about the recent increase in shipment interruptions during the transportation of essential radiopharmaceuticals due to new air transportation security mandates. The

Committee recommends that the Secretary of Homeland Security, in consultation with the Secretary of Transportation, review current procedures for shipment of radio-pharmaceuticals and recommend actions to ensure the timely delivery of them. If the Secretary of DHS undertakes this study, the Secretary shall also submit recommendations to the House Committee on Transportation and Infrastructure and the Senate Committee on Commerce, Science, and Transportation on the actions taken to ensure that timely delivery of these medical products by commercial aircraft no later than 180 days after the enactment of the Act. From the Committee on Transportation and Infrastructure, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

DON YOUNG,  
JOHN L. MICA,  
VERNON J. EHLERS,  
ROBIN HAYES,  
DENNY REHBERG,  
JOHNNY ISAKSON,

From the Committee on Energy and Commerce, for consideration of sec. 521 of the House bill and sec. 508 of the Senate amendment, and modifications committed to conference:

BILLY TAUZIN,  
JOE BARTON,

From the Committee on Government Reform, for consideration of secs. 404 and 438 of the House bill and sec. 108 of the Senate amendment, and modifications committed to conference:

TOM DAVIS,  
CHRISTOPHER SHAYS,

From the Committee on the Judiciary, for consideration of secs. 106, 301, 405, 505, and 507 of the Senate amendment, and modifications committed to conference:

F. JAMES SENSENBRENNER,  
HOWARD COBLE,

From the Committee on Resources, for consideration of secs. 204 and 409 of the House bill and sec. 201 of the Senate amendment, and modifications committed to conference:

RICHARD POMBO,  
JIM GIBBONS,

Provided that Mr. Renzi is appointed in lieu of Mr. Pombo for consideration of sec. 409 of the House bill, and modifications committee to conference:

RICK RENZI,

From the Committee on Science, for consideration of sec. 102 of the House bill and secs. 102, 104, 621, 622, 641, 642, 661, 662, 663, 667 and 669 of the Senate amendment, and modifications committed to conference:

SHERWOOD BOEHLERT,  
DANA ROHRBACHER,

From the Committee on Ways and Means, for consideration of title VI of the House bill and title VII of the Senate amendment, and modifications committed to conference:

WILLIAM THOMAS,  
DAVE CAMP,

*Managers on the Part of the House.*

JOHN MCCAIN,  
TED STEVENS,  
CONRAD BURNS,  
TRENT LOTT,

KAY BAILEY HUTCHISON,  
*Managers on the Part of the Senate.*

## PRISON RAPE ELIMINATION ACT OF 2003

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1435) to provide for the analysis of the incidence and effects of prison rape in Federal, State, and local insti-

tutions and to provide information, resources, recommendations, and funding to protect individuals from prison rape, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

Mr. SCOTT of Virginia. Mr. Speaker, reserving the right to object, and I will not object, however, I do want to thank the chairman, the gentleman from Wisconsin (Mr. SENSENBRENNER), and the ranking member, the gentleman from Michigan (Mr. CONYERS), as well as the gentleman from North Carolina (Mr. COBLE), for their hard work in getting the bill to the floor, and especially to my good friend and colleague, the gentleman from Virginia (Mr. WOLF), for developing the bill and introducing it with me.

I should also thank the House leadership and Senators KENNEDY and SESSIONS whose bill we consider today.

Mr. Speaker, I want to first express my appreciation to Chairman SENSENBRENNER for the heavy lifting he did to get this bill before us today. Not only did he make it clear that this matter was of the highest priority to him, but he directed his staff to get with everybody necessary to expeditiously develop a bill that we all could support. A reflection of his commitment to expediting this legislation is his agreement, despite his reluctance, to take up the Senate bill for House Floor consideration instead of our Committee bill. So, I want to thank and commend you, Mr. Chairman for your commitment to this legislation and your excellent and expeditious stewardship of this matter to this point.

I would also like to thank my friend and our Ranking Member, JOHN CONYERS, the gentleman from Michigan, for his support and assistance on this bill. And the leadership and determination of my Subcommittee Chairman and good friend, HOWARD COBLE, the gentleman from North Carolina, must also be recognized. From the moment this matter hit the Subcommittee agenda, his strong and persuasive impact was felt in having it move forward. It was a pleasure to work with you on this, Howard. I must also thank Speaker HASTERT, Majority Leader TOM DELAY and Minority Leader NANCY PELOSI for their strong support and accommodations in assisting this legislation to this point.

Of course, the spirit, purpose, and soul of this bill is personified in the efforts of its chief sponsor in the House, my friend and colleague FRANK WOLF, the gentleman from Virginia. The passion and dedication he has given to this effort has fueled us all.

Prison rape has been shown to have a devastating impact on our prisons.

Not only does it cause severe physical and psychological trauma to its victims, but prison rape is recognized as a contributing factor to prison homicide, violence against staff, and institutional riots. Prison rape also increases the transmission of HIV/AIDS, other sexually transmitted diseases, tuberculosis, and hepatitis B and C—all of which exist at a very high rate within U.S. prisons and jails.

Prison rape is a problem of sizable scope. Of the 2 million people incarcerated today, it

is estimated that one in ten, or roughly 200,000, are victims of prison rape. And youths in adult prisons are 5 times more likely to be raped than adults. Yet, because it occurs in prison, like most other aspects of prison life, prison rape is, essentially, ignored as a societal problem.

And society pays dearly for ignoring prison rape. Inmates, often non-violent first time offenders, come out of a prison rape experience severely traumatized and leave prison not only more likely to commit crimes, but far more likely to commit violent crimes than when they entered. And the high incidence of rape within prison which leads to the increased transmission of HIV, hepatitis and other diseases there, in turn, increases the incidences of these dreaded diseases and it imposes threats and costs to society at large.

Prison rape is a crime with constitutional implications. The Supreme Court held in *Farmer v. Brennan* that deliberate indifference to the risk of prison rape violates the Eighth and Fourteenth Amendments to the United States Constitution. While prison conditions may be "restrictive and even harsh," prison and jail officials "must take reasonable measures to guarantee the safety of the inmates."

The bill requires an annual statistical study of the incidence of rape in a significant number of federal, state and county prisons and jails, and public reviews of institutions where the rate of prison rape is 30% above the national average rate. It also establishes a clearinghouse for complaints of prison rape to assist prevention and prosecution, and provide training and assistance to prison and jail officials. Further, the bill establishes a program to provide grants, from a total authorization of \$40 million each year, to state and local governments and institutions for the purpose of enhancing the prevention and punishment of prison rape.

The bill also provides for the establishment of a Commission to develop standards for addressing and eliminating prison rape, and finally, the bill requires prison accreditation organizations to examine prison rape prevention practices as a critical component of their accreditation reviews.

In the end, and perhaps most importantly, the effort to combat prison rape is a moral imperative. Prison rape is nothing short of prison torture—the infliction of severe emotional and physical pain as punishment and coercion. Long after bodies have healed, the emotional trauma, shame and stigma of brutal and repeated prison rape lasts and embitters.

Whatever their crimes and whatever the prescribed punishment for them, in a humane society prison rape should not be a part of it. Prison rape not only derails justice—it destroys human dignity.

Again, I would like to thank Chairman SENSENBRENNER, Chairman COBLE, and Chairman WOLF, the chief Sponsor of the bill in the House, for their dedication and diligent work on this issue. I would also like to thank Senator TED KENNEDY and Senator JEFF SESSIONS, the chief sponsors of the Senate bill. A reflection of the work they have done on this issue over the past 2 Congresses is the fact that it passed the Senate unanimously and in record time.

Further, I must thank the originators of this effort—Michael Horowitz of the Hudson Institute and Vinnie Schraldi of the Justice Policy Institute, for their vision, leadership and dedication in bringing this matter to the forefront